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INTEGRATION OF ENVIRONMENTAL OBJECTIVES INTO AGRICULTURAL POLICY AND LAW IN THE NETHERLANDS

INTRODUCTION¹

Environmental policy can be described as a 'mission impossible', because a lot of policy programmes try to solve complex problems. Complex, because environmental issues and problems affect a number of organizations with different interests which they try to protect. Due to this diversity of stakeholders the perception of an environmental problem, the values and norms which are at stake and the number of solutions, differ. Therefore environmental issues activate a wide range of networks of organizations. The intriguing question is, can we solve such a 'wicked problem'?

Government interventions in policy network which is composed around wicked problems, have to respect the variety of interests and perceptions which are at stake. Therefore government interventions should be directed at linking these interests and perceptions. For the success of a policy program it is necessary to generate the commitment of the most relevant stakeholders in an earlier phase. If one ignores the importance of this commitment, the implementation of the program will

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fail, as many studies show. In more traditional conceptions of government interventions the relevance of this observation is often ignored. Implementation is just seen as the mechanic execution of rules in stable and willing environment. However, the reality is different.

In this article we explore how policy makers in the Netherlands try to link the interests and perceptions of a number of (government and non-governmental) organizations in order to integrate the dominant values of the agricultural and environmental policies. This integration is not imposed. Policy makers acknowledge the fact that the implementing organizations and the organizations which are addressed by certain policy programmes, are not cogwheels in an implementation machine. They are powerful and intelligent organizations which possess selfregulation capacities, *i.e.* capacities to regulate the behavior of those associated to the organization without the necessity of government action or with a much lesser important role of the regulatory authorities. These capacities should be stimulated and directed in the desired way.

We start by describing some basic notions about new forms of government intervention and selfregulation. In the next section some characteristics of environmental policy and law in the Netherlands are given. They refer to a general framework in which these new forms of intervention are being formulated. Then we focus on a case study which illustrates the use of selfregulation in order to accomplish the integration between agriculture and environmental values. With farmers a voluntary contract is made in which they oblige to run their farms in a more ecological balanced way. Government will compensate these farmers if these new ways of farming lead to a reduce in profits. In the last section an analysis and interpretation is given of the idea of selfregulation as described in the case study.

1 THE CONCEPT OF SELFREGULATION

New ideas about government intervention. At the end of the seventies it becomes clear that the limits of the welfare state and the central role of government in shaping that state and in solving all kinds of societal problems are reached. The belief that government can intervene in a complex, differentiated and rather turbulent society through a wide variety of detailed rules and regulations is being questioned. The legal network of laws, regulations and procedures got entangled, which led to all kinds of implementation and monitoring problems. Also, the idea that a complex society can be managed from one central, fixed, point of view, which is located above society (government as the cockpit of society),

neglects the fact that society consists of a variety of organizations, institutions and groups. These organizations try to influence the formulation and implementations of policies, which affect their interests. Government is just one of these actors. This means that societal interventions (or steering) has to respect the diversity of these actors, their interests and positions as well as the resulting conflicts, expectations, opportunities and threats (Den Hoed, 1983; Kickert, 1985).

New forms of governmental intervention or steering are therefore being formulated. Characteristic for these forms of steering is the proclaimed retreat of government. Steering gets the character of meta-steering: the object of steering are the existing capacities of selfregulation of organizations, institutions, groups and policy sectors which have to be stimulated and brought together (Bekkers, 1993). In stimulating these capacities for selfregulation government interventions focus on the in- and output of other governmental or societal organizations. These organizations to be steered are free to organize their own processes, according to their own wishes. They only have to comply with some general input- and output parameters. Another instrument which is often used is incentive steering. Through the use of positive (*e.g.* subsidies, fiscal benefits) and negative incentives (penalties, budget cut backs) one tries indirectly to influence the decision-making processes in an organization by altering the costs-benefits relation. But the organization is still autonomous to make its own decision. Another object of intervention can be the interdependencies between organizations. These interdependencies force organizations to communicate and to negotiate with each other in order to reach a shared definition of the problems to be solved and the solutions to be implemented. Government interventions can try to create an arena or platform in which relevant stakeholders meet to negotiate. Not only the structuring of the arena can be the object of intervention, but also the playing rules.

2 FORMS AND CONDITIONS OF SELFREGULATION

Selfregulation can be described as a way of coordinating (group) behaviour. For the coordination of this behaviour the participating members formulate, implement and monitor (group) rules. What is the role of government vis à vis processes of selfregulation? Four positions can be discerned. First, we have the purest form of selfregulation. The initiative to coordinate the behaviour of a group is in the hands of the group members themselves. The role of government is absent. The second form of selfregulation of group behaviour is also voluntary, but government

has urged the members of a group to coordinate their behaviour. The third way of coordination group behaviour is being based on government regulation. Government can formulate a legal framework in which a practice of selfregulating can develop. The conditions stated can be directed at the process of formulating, implementing and monitoring rules, but also at directed at the outcomes of the process of selfregulation (Eijlander, 1994). The last form of selfregulation, but this is disputed as the regulatory authorities stil apply a legal instrument (although not based on public law), is the one in which government signs a contract with other (private) organizations in which rules of behaviour, such as a effort obligations, are being formulated (Geelhoed, 1993).

The concept of selfregulation does raise some questions which address the conditions for successful selfregulation (Stout and Huls, 1992). The first condition is a clear description of the tasks, responsibilities and competences of the organization that facilitates the self-organisation within a group or policy sector. The second condition deals with establishment of decision-making structures and procedures which safeguard a well-balanced and representative consideration of interests. The third condition focuses on feedback and monitoring mechanisms. Once established rules has to be implemented by the members of a group and they should comply with the obligations lied down in the rules. Therefore a monitoring system with sanctions should be developed. But a monitoring system is also needed for learning if the intended goals are actually being reached or not. The last condition deals with norms which refer to the idea "*Rechtsstaat*", like the Rule of Law, legal equality and legal security.

3 SOME CHARACTERISTICS OF ENVIRONMENTAL POLICY AND LAW IN THE NETHERLANDS

Environmental policy. Responsibility for national environmental policy in the Netherlands rests with three Ministers. The first responsible minister for environmental matters is the *Minister of Housing, Planning and Environment*. Besides the fact that the main responsibility for environmental policy rests with this minister, she has to coordinate the environmental policies regarding traffic and water management (for which the *Minister of Transport and Water Management* is responsible) and the policy regarding pollution by animal manure and pesticides and regarding the preservation of nature, like protection of landscapes, forests, animals and biological diversity, for which the *Minister of Agriculture, Nature and Fisheries* (hereafter referred to as the Minister of ANF) is respon-

sible. The implementation of environmental policies and law takes place at provincial and municipal level, *i.e.* by provincial and municipal governmental authorities.

In the last few years, the environment in the Netherlands has more and more been regarded as a whole: every aspect of the environment (water, air, land) has its influence upon other aspects. Pollution of the air, for example, will pollute the soil (as rain can bring dangerous substances in the air on the ground), the substances then get into the groundwater and surfacewaters. Therefore it can be dangerous to look just at one aspect, or one sector of the environment. A certain policy to reduce, for instance, the amount of waste being dumped on the soil or in surface waters might cause more pollution of the air because people start to burn their waste rather than to dump it on the soil or into the water. So the prevention of environmental pollution in one sector can cause more pollution in the other. Therefore it is necessary to have an overall environmental policy.

The Dutch overall environmental policy was first published by three competent ministers in 1989 in the *National Environmental Policy Plan (NEPP)* (NEPP, 1989). This plan, and its 1994 follow-up the NEPP 2 (NEPP 2, 1994), can be seen as an answer to the scientific report *Concern for tomorrow* (NIPHEH, 1993). It describes the problems that have arisen and sets out the paths for environmental policy between 1990 and 2010. It aims at a reduction of all pollution by 75-90%. A total of 220 measures were announced, varying from legislative action to scientific research. In addition, the plan describes the annual costs that are involved in the measures. It is expected that annual costs for the necessary environmental protection measures will increase from approx. USD 13.125 million in 1995 to USD 19.875 million. Other important official reports from the government are the Water-household Plan (issued by the Minister of Transport and Water Management) and the Policy Plan on Nature (issued by the Minister of ANF). These plans can be compared with the NEPP, but are limited to water-quality and water-quantity and to landscape-preservation.

Public and media attention is especially focused on agricultural problems (large quantities of animal manure), deposition of acid (caused by traffic, industry and agriculture), polluted drinking-water (especially by nitrates and pesticides), dehydration of certain sensitive natural areas, polluted grounds on which houses have been constructed, polluted industrial areas, certain extremely polluted riversoils and the problem of wastes.

Private environmental organisations (like the Nature and Environment Foundation) play an important part in the activation of public

awareness. They often come up with data on the quality of the environment and can, in that way, provoke further action by the authorities.

Environmental law. Article 21 of the Dutch constitution charges the Government with the care for the protection and improvement of the environment. The government has, until now, fulfilled this task mainly by issuing legislation. From all possible instruments in the regulatory, stimulatory, and communication spheres (direct regulations, economical instruments like levies or subsidies, education, public information *etc.*) a package of instruments is composed, taking regard of the nature of the group involved, with which the behaviour of this group has to be influenced. The main idea is to point everyone at his own responsibility towards the environment, although, until now, direct regulations imposed by national, provincial and municipal authorities on all industries and farmers have been emphasized, and only recently selfregulatory instruments are being applied (creating research duties for industries and agriculture, imposing a system of environmental care within firms *etc.*).

Dutch environmental legislation was for a long time dominated by "sectoral" acts: one act for every kind of pollution (*i.e.* one for pollution by noise, one for air-pollution, one for pollution by waste and another for pollution by chemical waste *etc.*). Since the 1980's, however, the strong tendency towards an overall environmental policy had its reflection on legislation as well. The most important environmental act nowadays is the *Environmental Management Act (EMA)* (Bulletin of Acts, Orders and Decrees 1992, 551). This act incorporates matters of procedure that used to be dealt with in sectoral acts. The EMA contains rules on the application and granting of licenses for plants and installations (including important procedures for information and participation of the general public), rules on environmental impact assessment, on wastes, on environmental planning and on environmental quality standards, general provisions concerning appeal and enforcement of environmental law, and financial provisions.

The EMA offers an elaborate procedure for the granting of licenses to most industrial and agricultural activities. Important aspects of this procedure are the many possibilities for citizens and organisations to participate in it. They have a right to be heard and to raise objections to draft decisions. They can also start proceedings before an administrative court, even when there is no specific interest of the particular citizen at stake. The philosophy behind the liberal rules on admissibility is that whenever environmental interests are at stake, everyone should be able to prevent the environment from being affected.

The latest trend we observe in Dutch environmental policy and

law is the trend towards more integration. This means that no longer all environmental policy and law is integrated into one Environmental Policy Plan, or one Environmental Management Act. Instead, past experiences prove that integration of environmental objectives (quality goals) into each sectoral field of policy (*e.g.* agriculture) leads to better results. Internalization of environmental interests can only be reached when fully supported by the people in the relevant policy field (governmental authorities, farming unions and individual farmers).

We now are going to review the consequences of these new forms of steering: integration of environment into agricultural policy and law, and – as an example – the management contract as an instrument to combine agricultural activities with nature protection.

4 CASE: SELFREGULATION IN AGRICULTURAL POLICY AND LAW

Agriculture in the Netherlands, a short introduction. Agricultural products are very important export-products of the Netherlands and therefore of substantial importance to the Dutch economy. Although the Netherlands is one of the smallest and the most densely populated country in the world, it now is the fourth largest net exporter of agricultural produce. Main agricultural production consists of course of milk and cheese, but also of meat, eggs, vegetables and flowers.

In the Netherlands agriculture is now seen as one of the most important sources of pollution and environmental degradation. Since 1950 agricultural production has risen to enormous amounts, for instance between 1950-1984 milk production has doubled, egg production has trebled, pork production has quadrupled and the production of poultry has increased by ten times. At the same time however the area of land used for agricultural purposes has declined by 15% and the input of labour by more than 50%. This means that agricultural activities have been intensified enormously. It certainly is the most intensive in Europe (Baldock and Bennett, 1991).

To reach these results there has been a substantial greater input of nutrients, pesticides, energy and (ground)water and new techniques in farming and livestock breeding have been developed. Agriculture has been “industrialized”, with all the consequences for the environment. To reach a ratio of production to domestic consumption of 411% for butter and 233% for pig meat, to name but two products, in such a small and densely populated area, the environmental stress must be big, especially – in these examples – as caused by animal manure.

Indeed, the problems caused by agricultural activities are enor-

mous, as was shown by the National Institute for Public Health and Environmental Hygiene in its aforementioned study *Concern for tomorrow*. The report stated in general that if recent policy was continued, the situation of the entire environment would deteriorate drastically within a decade. As we look at problems caused by agricultural activities only, we can discern damage caused by the use of pesticides, acidification by ammonia emissions, discharge of animal fertilisers, especially phosphate and nitrate and dehydration caused by the use of groundwater for spraying crops. Finally, landreform has had negative consequences for natural areas and wild animals and plants and their habitat.

The positive approach: selfregulation by farmers. Until now the legislator has tried to reach various high policy goals in the agricultural field by imposing rather strict measures on the farmers. Especially all legislation concerning the discharge of animal waste consists of a very complicated network of detailed rules, comprising, for instance, the precise amount of phosphates that can be distributed on various types of soil, in different periods of the year and differentiated to various weather conditions... These rules are given on national, provincial and municipal level. This approach has, not surprisingly, not lead to great results. Farmers are not very willing, if indeed they are *able*, to live up to the enormous number of complex rules.

Recently, pleas for a new approach can be heard, and the first results of this new approach already are visible. As stated above, the ministry of ANF last year published a new policy in their report *Steering to Measure*. This new policy will be implemented in different ways, all of which have in common the emphasis on a joint effort to be delivered by all involved parties. Social networks of farmers are called upon to take their own responsibility to improve the environment. Farmers are stimulated to live up to Best Management Practices (BMP), jointly set-up by individual farmers and the government. Farmer's organizations are stimulated to set up systems of eco-labelling of products, of intensive livestock breeding systems etc. One other example of the new policy approach and the matching new style of regulation concerns nature protection by farmers. This example will be elaborated in the next paragraph.

An example of the selfregulatory approach: nature management contracts. A good example of how farmers are stimulated to preserve nature is the so-called 'management contract': instead of imposing obligations and prohibitions by law, competent authorities can make contracts with individual farmers in which the farmers (voluntary) agree to run their

farming business in a more ecological balanced way. If they agree, the government gives the farmers compensation for possible lesser profits that arise from this way of farming. This policy was already developed in the 1970's and can be seen as a forerunner of the now widely acknowledged idea of selfregulation.

The *Regulation on nature management contracts 1993* gives the rules that apply on these contracts. There are two models that can be applied: rules concerning *management areas* (designated by provincial authorities) and rules concerning *reserve areas* (designated by the minister van ANF). Reserve areas are of extreme ecological importance and therefore need to be acquired by the State for best protection. Since in these areas all agricultural activities will be banned, these areas are of no importance for the conference. In management areas however, agricultural activities and nature protection are to be firmly interwoven.

A management plan forms the basis for individual contracts. Such a plan has been drawn up by the Provincial Commission for the Management of Farmlands. This is a commission in which farmers' organizations, nature-protection organizations and the concerned governmental authorities are seated.

Once an area has been designated a management area, individual farmers in this area can draw up a contract with the Bureau for the management of farmlands, an independent organization responsible for the making of contracts on behalf of the minister of ANF. In such a contract farmers can commit themselves to farm in an ecologically balanced way. A maximum of eight targets can be laid down in the contract, such as the conservation of natural objects like pool, bushes *etc.*, the conservation of natural 'buffer areas', the conservation of botanic qualities, the protection of weader-birds (lapwings *etc.*), the protection of winter-migratory birds and the maintenance of a certain landscape.

For the realization of each target a whole package of concrete measures can be agreed upon. These can include such measures as not using pesticides, not cutting meadows during the breeding season of certain species of birds, or raising the groundwaterlevel, planting hedges and trees around buildings and meadows and digging pools. As can be seen from these examples, some measures are prohibitions to do something (passive), and some are obligations to act (active).

For each package of measures farmers receive full compensation from the ministry of ANF for the loss of income (passive measures) and the costs involved (active measures). Dependent on the nature of the measures, the compensation can vary from USD 150 to almost USD 1000 per hectare per year.

The European Union strongly supports this policy. Once reported

to the European Commission, the Commission can list management areas on the list of sensitive farmlands. For areas on this list, each member state can receive from the European Union 25% of the compensation that has been granted to individual farmers (EC Directive of 28 April 1975, amended on 23 March 1985, 85/795/EEC, *OJ* 1985 L93).

5 ANALYSIS AND INTERPRETATION

The case study shows that the implementation of a policy program does not resemble the coming into force of a machine on the basis of command and control approach. The central assumption is that the other organizations and individuals have selfregulating capacities. They are intelligent and powerful actors who represent or have valid interests, which of course can conflict with the interests of environmental agencies. The main challenge is to create a situation in which the parties – government and farmers – can both win, in a way that both have advantages with respect to a certain solution or that the disadvantages of a certain solution will be minimized *c.q.* equally shared.

In the case study concerning the nature management contracts the advantages of government with respect to the chosen approach are mainly in the area of its nature protection policy. Protection of natural values in rural areas has always proved difficult because of the large scale agricultural activities which do not allow the presence of nature. With the management contracts however, the government has managed to stimulate farmers to constantly take the interests of nature into account. Environmental considerations have become integrated into the economical decisionmaking process of farmers.

For the farmers the main advantage is that their natural alliance with nature finally pays off. For long, interests of nature had to be disregarded because of legitimate economic considerations. With the management contracts however, farmers no longer feel the economic disadvantages of combining agricultural business with care for the nature on their lands.

But there are more advantages, especially long term advantages. The positive approach that we have sketched not only stimulates farmers to take environmental considerations into account, it can also have a positive spin off on other areas of agricultural environmental policy. All involved actors, farmers and government, but also environmentalists and other third parties, realize that agriculture and environmental protection are no opposite interests that cannot be balanced.

What are the possible difficulties with this new approach? We see

three main possible problems. First, the realization of policy goals depends on the voluntary cooperation of the farmers. The government can not force farmers to contract. This however is nothing new. The use of direct regulation does not guarantee that policy goals are reached either. On the contrary. We have seen a failure of the command and control approach in many areas of environmental/agricultural policy because of large problems with the compliance of such regulation. Through selfregulation monitoring costs for the government have, compared to the old command-and-control approach, partly shifted towards the farmers. The process of internalization stimulates farmers to do what the government wants them to do, but now in an intelligent way and in their own interest.

Secondly, what is the status of the contract? What if an individual farmer does not comply with the contract? In our case the solution is simple: the government does not pay the compensation. Although this may not in every form of selfregulation be as simple, it always is important to have the possibility to impose sanctions. Without the threat of sanctions, even selfregulation is doomed to fail.

And last but not least, what is the role of third parties? Third parties like environmentalists have always had an important role in the use of command-and-control instruments by the government. They can make objections and go to court when they don't agree to a certain decision of the government. Once farmers and governments are making agreements on an equal level, there may not be a role for third parties. This problem still has not been solved in a satisfactory manner. Sometimes, environmentalists are invited to participate in the selfregulatory process, but this does not always work out. Sometimes a third party can soften a conflict of interests, but sometimes they strengthen conflicts.

The approach we described in this article has in the Netherlands been implemented only very recently. The first results are visible and are seen as hopeful. As we have demonstrated certain risks are involved in the selfregulatory approach. The near future will demonstrate if these risks become reality and undermine the road to selfregulation.

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