

DEVELOPING POLICY THROUGH LEGISLATION: A DESCRIPTION AND
ANALYSIS OF AGRICULTURAL LAWS IN THE UNITED STATES

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Preface

It is generally agreed that there are sufficient resources of land, water, labor, technology and other capital to increase food production to alleviate current deficits or meet emergency needs, at least in this century. Much of the blame for existing food shortages in certain parts of the world falls on government policies and institutional rigidities that constrain the production, consumption and trade of food. While the imbalance in the growth of food production between the developed and developing countries is largely due to policies which set low priorities to increased food production in the latter group of countries, the developed countries too pursued policies that were not effective in remedying this situation.

An integral part of IIASA's food and agricultural project is the critical examination of policies and institutional arrangements that have contributed to present food problems. An understanding of existing policies and their consequences is needed for a realistic assessment of policy options facing national governments and international agencies. The world's population, which now stands at 4 billion will double in the next 30 to 35 years, increasing to perhaps 8 billion people. It would be unrealistic to talk about meeting the food needs of that many people without removing or modifying present policies which act as disincentives to production and trade. Modification of national policies should take place in concert possibly within the framework of internationally agreed standards and time schedule. If successful these steps would allow the coordination of national production, price and trade policies.

The United States occupies a leading position in the world food economy. The U.S. dominates world grain trade, accounting for between 46 and 51 percent of total exports in recent years. American dominance has been more pronounced in feed grains than in wheat accounting for between 50 to 56 percent of world exports of the former and between 41 and 45 percent of world exports of the latter. Externally, exports are important from the viewpoint of U.S. influence on world trade, and development of world trade policies. Internally, exports are vitally important to domestic agriculture and to the entire nation as well. Foreign markets provide important outlets for U.S. farm commodities, representing the produce of one out of every 3 1/2 acres harvested. This included two-thirds of U.S. wheat and rice output, over half of soybeans and cattle hides, about two-fifths of the tobacco, over one-third of the cotton, and about one-fourth of the feed grains produced in calendar year 1974. Without strong export market outlets for these commodities income of U.S. farmers would plummet and average unit cost of production would rise because of smaller volume. Exports enable farmers to use their agricultural resources and managerial skills.

The U.S. Department of Agriculture estimates that U.S. farmers have the capacity, using present technology, to increase by 1985 their production of wheat and feed grain about 50 percent, soybeans one-third, and beef output 40 percent.*

Whether the U.S. will attain these output targets will depend, to a significant extent on its future food and agricultural policy. And this of course, is affected by policy decisions of other governments. The study by Suzanne Hanson traces the evolution of major U.S. agricultural policies and programs the underlying forces and analyses their domestic and external effects and implications. The study shows that farm price support policies have grown out of a long history of political accommodation to domestic producer and consumer interests. The same forces together with policies of foreign governments will continue to shape future U.S. food and agricultural policies. This study then provides an understanding of the policy making forces and appreciation of the difficulties in reconciling the interests of diverse interacting forces.

Stephen C. Schmidt

* U.S. Department of Agriculture, American Agriculture Its Capacity to Produce. ERS-544, Washington, D.C. February 1974, page 8.

Abstract

Legislation is the primary vehicle for the realization and execution of policy objectives.

An awareness of the strengths and weaknesses of the existing framework of laws facilitates the implementation of new policies. This paper examines the fundamental agricultural legislation in the United States to determine implicit or explicit legislative methods which have been enlisted in pursuing policy goals. The analysis reveals legislative conflicts and contradictions which are counterproductive to efficient policy implementation and suggests that effect agricultural regulation has been hampered by the tendency of legislators to rely too heavily on out-moded laws to solve current problems. Each major piece of legislation administered by the United States Department of Agriculture is discussed in terms of its stated policy objectives, its potential ancillary uses, its formal structure and legislative mechanisms, and its impact in achieving policy goals. For reasons of convenience, the classification of Acts into policy groups corresponds generally to those headings used in the Compilation of Statutes published by the United States Department of Agriculture. However, it is recognized that the multiple purposes of each Act makes these categories inaccurate.

This paper considers only those Acts which are directly relevant to the agricultural process and does not encompass environmental and commercial legislation which may indirectly affect agricultural activities.



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Developing Policy Through Legislation: A Description and Analysis
of Agricultural Laws in the United States

I. INTRODUCTION

1.1 Overview

Legislation is the instrument facilitating the formalization of government policy into tangible and enforceable statements of law. Generally, it represents a response to circumstances or conditions which have arisen within a sector of a political system. However, in some cases, existing legislation may advertently or inadvertently create the need for the formulation of new policies. This report is concerned with legislation pursuing agricultural policy objectives in the United States, taking into consideration the variety of implementation mechanisms available. These methods represent either direct or indirect legislative reactions to the evolving agricultural economic climate and, in addition, illustrate how previously enacted legislation has been adapted to current and changing needs.

Political constraints make wholesale policy changes virtually impossible. Consequently, agricultural policy in the United States has been implemented by means of moderate amendments to and temporary suspensions of existing legislative provisions. Because of the manner in which policy has been expressed, some Acts have come to pursue multiple and sometimes contradicting or conflicting goals. An examination of the precise responses and legislative methods used in current Acts will disclose the context in which policy development operates as well as the counterproductivity of overlapping or conflicting objectives.

Agriculture in the United States has been governed by a broad spectrum of laws regulating all aspects of the process. The legislation examined in Part II of this paper consists of the principal enactments directly administered by the Department of Agriculture. This in turn represents the most prominent policy goals which have been sought by the United States government.

Although the importance of environmental considerations, inter-state commercial regulations, and international trade agreements and treaties are recognized as factors affecting the agricultural sector, the scope of this study prevents expanded discussion into those areas.

1.2 General Conclusions

1.2.1 Research Findings

There has been a definite reluctance on the part of the United States government to repeal old laws and enact new ones more in accord with purported policy directions. This is in part attributed to the difficulties of contriving legislation satisfactory to all political factions. One method of circumventing this problem has been to retain former legislation but to revise it by means of amendment with the result that much of the agricultural sector is now regulated by laws which were originally enacted up to forty years ago. This method of policy implementation sacrifices a certain degree of accuracy and precision for administrative expediency.

Policy objectives expressed in legislative terms are not created in a vacuum but are a vehicle for meeting demands and needs arising within a system. Laws do not operate in isolation. They must reflect the social, economic and political aspects of a problem in order to formulate a solution delivering the greatest benefits to the majority of those affected. Legislation may be used to implement desired policies by both expressed and implied measures. In some cases, the government will recognize certain policies as desirable, but perhaps not popular. For that reason, those policies may be enacted in such a way as to have the intended effects but in the guise of an entirely different area of regulation more popularly acceptable. An example of this is the Soil Conservation and Domestic Allotment Act of 1935 as amended. This Act, which is still operative, provides for a program of natural resource conservation by means of set-aside acreage and support payments for the conversion of productive land to conservation uses. However, the way in which the legislation was enacted also makes it an instrument of production adjustment and surplus management, items of prime concern in times of excess supply.

In other cases, the anticipated results of legislation have been entirely different from the actual outcome. An illustration of this situation is the Agricultural Trade Development and Assistance Act of 1954 (P.L.480) which established a mechanism for the transfer of commodities either by donation or on concessional terms, from the United States to countries suffering shortages. Although not actually stated in the Act, one of its primary functions was to deal with the problems

of over-production and create a market for commodities stock-piled in the United States. Surplus disposal is no longer a problem since there are now ready cash purchasers for American production but because of the foreign relations implications of this legislation, the government is obliged to continue a policy which, in relation to the agricultural sector, is both unsound and unnecessary. Hence, the result of this legislation aimed at surplus disposal has been to commit the United States to a program of foreign aid even in times of restricted supply.

A combination of Acts, or perhaps even subsections within one Act, may inadvertently tend to counteract one another or express incongruous methods which will defeat the achievement of desired policy goals. For example, the United States has historically pursued a policy of supply control as a means of dealing with chronic surplus production. The fact that there exists such great farm potential has continued to create problems in that over-supply means lower agricultural prices and, hence, reduced farm income. The logical solution was to institute programs which would limit production or alternatively provide expanded markets for American farm abundance.

One response to the problems of surplus was the formulation of agricultural policy with social welfare goals, namely, the National School Lunch Act, the Child Nutrition Act, the Food Stamp Act and, as mentioned above, the Agricultural Trade Development and Assistance Act of 1954 (P.L.480). The object of these programs has been to make excess farm production available, both domestically and externally, to those groups requiring food assistance. The methods of accomplishing this objective have

ranged from subsidized sale to outright donation. However, these programs, in themselves, are incongruous with the policy of production management which they are intended to promote. That is, social welfare programs increase the long-term demand for agricultural commodities in addition to acting as a disposal mechanism. Measures which encourage restricted production and the withdrawal of arable land are counterproductive to the demands created by food assistance. The overall result is that the social welfare programs may increase the need for expanded production in opposition to the historical government tendency to direct efforts towards supply control, and hence there is a potential conflict of basic policy objectives.

Much of the legislation regulating the agricultural sector in the United States may be characterized as pursuing multiple goals either explicitly or implicitly. For example, again consider the terms of the social welfare programs discussed above. Although expressed in terms of food assistance to those in need, the implied purpose of these programs is to create additional outlets for American productive abundance. Under a certain set of circumstances, these objectives are complementary and fulfill dual purposes, both of which require attention. The formulation of this particular policy in terms of social welfare legislation as opposed to surplus disposal legislation, can probably be attributed to the political realities of policy implementation. However, the principal weakness of legislation enacted to meet various needs is the potential conflict of interests when circumstances change. In the case of the agricultural sector, this conflict would arise between agricultural producers and agricultural consumers.

The major points of emphasis in United States agricultural legislation have been to encourage increased market expansion while also moving away from direct government intervention in the production process. This suggests that the government has assumed a greater role in the marketing of agricultural commodities but at the same time has attempted to reduce the dependence of the farmer on public production support. This is representative of the current policy orientation encouraging a free and open market in agricultural commerce.

While pursuing a policy of market expansion, the government has also attempted to protect domestic production. For that reason, inefficient agricultural sectors, such as the dairy industry, have been supported by government intervention. It has been recommended that in the interests of enhancing the United States trade position, weak domestic areas of production should be replaced by increased imports from nations able to produce those products more effectively. However, the government has continued to follow a protectionist policy with respect to foreign trade while also seeking out greater foreign markets. These are antagonistic objectives which only a powerful trading nation is able to successfully pursue.

Because much of the agricultural legislation in the United States has been formulated by means of amendment to earlier laws, innovation in policy making has been constrained. Amendments must bear some relation to the original Act which means that any new measures introduced in this manner must fall within the original scope of regulation. The result is that in some cases legislators are confined to a restrictive path of policy implementation following guidelines of outdated laws no longer responsive to current economic and social needs. The inflexibility

created hampers the effective adjustment to evolving conditions.

The long-term implications of some policy pursuits has not been accorded due consideration at its legislative inception. One illustration of this is the Food and Agriculture Act of 1965, which provided for incentive payments to farmers based on long-term commitments of production control. The primary objective of this Act was to deal with overwhelming surpluses which were at that time depressing farm prices. However, the government failed to attach sufficient weight to the possibility that full production may be desirable at some future time. This short-sighted approach to policy formulation has forced legislators into a rigid position and has effectively stunted the growth of policy in some areas of agricultural regulation. This difficulty is compounded by the fact that when new policies are implemented, there is a long interval until the provisions are effective because of the nature of the agricultural industry and its vulnerability to external forces.

The primary concern of the government in pursuing agricultural policy has been to stabilize farm production at such a level as to provide adequate supplies at a fair return to the producer and a reasonable price to the consumer. One consequence of this has been the increased presence of the Department of Agriculture in the fields of domestic and social welfare, foreign aid and assistance, and international trade relations. By assuming some of the functions of other government departments, the Department of Agriculture has been able to exercise additional methods of supply management not strictly within its immediate control. However, the fact that the Department has become involved in these areas has increased the necessity for government participation as a moderator in the agricultural marketing process regardless of its stated intention of reduced government intervention.

1.2.2 Interrelationship of Policy and Legislation

Legislation is the legal manifestation of policy. In order to be effective, policy must be expressed in comprehensible terms set out in sufficient detail to facilitate the smooth operation of the principles enunciated. For that reason, policy should be embodied in a public document of universal application in order to avoid any ambiguities or conflicts. The elements of regulation must be formulated, tested and revised as the need arises to ensure that the direction intended is in fact pursued.

There are three methods of implementing policy, the most logical and straightforward of which is to develop the policy and then to enact the necessary legislation. A second possibility is to incorporate new policy into existing legislation by means of amendment. Finally, and least satisfactory, is to direct policy formulation to comply with currently operative legislation without necessitating any changes or amendments.

The Beef Import Quota Act of 1964 is an illustration of legislation enacted to carry out a desired policy. The purpose of this Act was to protect the United States livestock industry through non-tariff methods at a time when foreign imports threatened to aggravate weak domestic conditions. It was these circumstances which prompted a shift in government policy to one of greater intervention in the marketing process in spite of the potential trade implications such action may have had. The resulting legislation was tailored to meet a specific need and was directed particularly at the problem of excessive meat supplies depressing the United States market.

This method of policy implementation is efficient as well as precise in creating an exact response as conditions require. Its main purpose is to attack a particular problem with strict and enforceable regulations in order to alleviate certain stresses coming to bear upon a system. One drawback of this form of policy-making is the danger of proliferating unnecessary or superfluous laws rather than creating Acts which may be made applicable to various situations. Laws must represent a coherent policy orientation. When legislation is enacted in a piecemeal fashion in order to satisfy each particular demand as it arises, it is quite possible for inconsistencies to occur in the overall policy direction.

An example of policy-making by means of amendment is the Agriculture and Consumer Protection Act of 1973. Although expressed in the form of an individual piece of legislation, this Act is devoted almost exclusively to amending earlier Acts dealing with agricultural regulation. Its main purpose is to update, extend or suspend the operative provisions of antecedent legislation without actually introducing any extensive shifts in policy orientation. Policy changes are expressed in the context of legislation sanctioned at an earlier time. This means that any alterations to current policy directions are made gradually and relatively inconspicuously with the result that implementation by this method is easier than by the initiation of a new set of laws.

The inherent difficulty of legislating by means of amendment is that the policy propounded must conform to some degree to the structure and subject matter of the original Act. This

means that policy-makers are restricted in the extent to which they are able to pursue new policy directions and flexibility is sacrificed for legislative expediency. The development of policy is constrained to certain pre-authorized areas with little regard for policy innovation. The fact that policy-makers must operate within rigid guidelines creates the danger that they may become oblivious to the needs arising from evolving economic and social conditions. However, this method of implementation does promote continuity and stability in the legislative process.

One aspect of policy formulated to conform with existing legislation is exemplified in the Agricultural Trade Development and Assistance Act of 1954 (P.L.480). At its inception, a specified dollar value of food aid was authorized either for donation or subsidized sale. As noted above, the principal goal of this Act was to provide outlets for United States food surpluses. As conditions changed the need for such a program, from the agricultural standpoint, decreased because of a combination of increased world market demand for American products and a series of poor harvests drawing down United States stocks. This created pressure on the government to withdraw or suspend this legislation which was no longer serving the primary purpose for which it was enacted.

On the other hand, however, the foreign relations implications of this program put pressure on the government to devote increased resources and funds to the aid program. The result was a policy of compromise whereby P.L.480 assistance was continued at the same dollar amount, but with more onerous restrictions on eligibility. Inflationary economic conditions have had the effect of

decreasing the actual value of aid extended in spite of the fact that the dollar value has remained constant. Hence a policy of reduced surplus disposal was modified to comply with existing foreign aid legislation. This legislative inertia produces unsatisfactory results in both areas of regulation since policy objectives are left in limbo with neither the agricultural nor the foreign relations considerations being adequately resolved.

The strength of a policy direction and the extent of its popular appeal is often reflected in the manner in which it is implemented. The influence of the urban consumer interest on the current political situation has made it necessary for much of the agricultural policy tending to stabilize or enhance the producer's position to be instituted through indirect methods or subtle legislative changes. This accounts for an increased emphasis on social welfare objectives, export expansion, and conservation goals in agricultural policy. Policy-makers must carefully assess the existing political, economic and social climate prior to determining how policy will be carried out.

1.2.3 Factors Affecting Policy Formulation and Implementation.

Current agricultural policy in the United States has been influenced by various factors during the course of its evolution. As recently as the late 1960s, the American agricultural sector was characterized by overproduction and abundance with the result that policy was continually focused on striking a balance between supply and demand in order to stabilize farm income and consumer prices. This meant that regulations were

enacted which would encourage the withdrawal of productive land from cultivation or at least reduce the number of acres planted to any specific crop in excess supply. Programs were also instituted for the purpose of utilizing some of the commodities held in private or public stockpiles.

While the United States was pursuing a conscious policy in the early 1970s to decrease reserves, external events occurred: world producers experienced a series of bad harvests due to crop disease or climatic conditions. This greatly increased the demand for food production. Failure of the Peruvian anchovy catch put greater demands on American soybean production as an alternative source of protein supply. This demand was compounded by poor peanut and groundnut crops in Asia and Africa. Other relevant factors included a leveling off of the Green Revolution in India and an accelerating import demand in Japan, Europe and Soviet Union.

Increased demand for commodities which were becoming more and more in short supply resulted in a rapid increase in agricultural prices. The United States market cushion had been removed because of the instability in carry-over stocks and in the midst of hoarding and speculation, world prices rose. In addition, the oil crisis made fertilizers more expensive and also pushed up the operational costs of production which were passed on and reflected in consumer prices.

The government's response to these changed conditions was a shift in policy to one of full production, encouraging much of the land which had been set aside to be planted with crops for which there was increased demand. One method of accomplishing this was to reduce the maximum allowable payment to \$ 2.500. for land devoted to conservation uses pursuant to the Soil Conservation and Domestic Allotment Act. In addition, set-aside requirements as a condition of eligibility for supplemental payments under the Agriculture and Consumer Protection Act of 1973 were suspended. However, this Act also introduced the concept of price support by means of target prices indexed to the cost of living for the purpose of assisting producers unduly affected by inflationary costs or disastrous physical conditions. Thus, at a time when the government was promoting free market interaction in agriculture and consequently was purporting to decrease its involvement in the agricultural sector, the implications of its target price legislation was to increase the potential for government intervention in the production process. In addition, monitoring of both imported and exported goods was introduced through various Acts as a means of protecting the domestic market against dumping by foreign producers while also regulating the volume of food leaving the country and hence controlling the national supply.

These policy responses aimed at neutralizing the effects of external factors also had repercussions in the national agriculture industry. Export controls on soybeans, which in retrospect proved to be unnecessary, severely injured the position of the

United States as a reliable trading partner. Countries which were most dependent on American exports channeled investments into the soybean industries of other countries, especially Brazil, in order to ensure that adequate supplies would be available in the future. This enhanced the position of these producing nations, to the detriment of United States farmers, as major competitors in the world market.

The natural consequence of export monitoring was to impede the efficiency of trade and commerce because of the onerous record-keeping and reporting requirements imposed. The potential intervention of the government became a constant consideration in the negotiation of private trade agreements. This put exporters in a more rigid and inflexible bargaining position in the international market. The objective of export monitoring was to guard against the earlier situation of stocks being rapidly drawn down by unknown purchasers, but this meant that the government assumed a greater role in the marketing process.

The foreign and domestic aid programs should also be considered in the context of external factors, in that the viability of these schemes as a part of agricultural regulation was dependent upon the existence of chronic over-supply. When the events occurred which increased demand for agricultural production, the economic need for the maintenance of artificial markets disappeared. There were willing cash purchasers competing for the commodities being produced as well as those already stockpiled, with the result that assistance programs were badly neglected by the government. However, the operation of certain pressure groups have focused attention on this problem and further support,

albeit with more restrictive criteria, is being devoted to these social welfare programs.

1.2.4 The Effects of Legislation and Legislative Inertia in Promoting or Hindering Policy Goals

The legislative context in which policy objectives are implemented may operate as either an impetus or a barrier to the achievement of long-term goals. In the United States, the approach has been to retain old laws while at the same time implementing new legislation. For that reason, the agricultural sector is governed by a mixture of inputs, some of which promote continuity in policy while others look to new methods of coping with current and ongoing needs. In some areas of regulation, a complementary balance between the old and the new has been reached. However, it is more common for the result to be a conflict of policy objectives and a compromise of accuracy and precision in policy implementation.

Although the provisions of some Acts may be no longer relevant in light of present economic and social conditions, it has been unusual for the government to revoke agricultural legislation. Instead, terms have been merely suspended which means that they could be reinstated at any time in the future should the government deem such action necessary. This makes available to the government a growing inventory of regulation covering a variety of possible policy directions. The weakness of the potential operation of suspended provisions is the insecurity which it creates vis à vis the producer who must conform to current legal requirements but at the same time ensure that his operations are adaptable to any laws which might be revived. An illustration

of this is the Agriculture and Consumer Protection Act of 1973 which provides for a program of set-aside acreage for conservation purposes but makes the plan operative only as declared necessary by the Secretary of Agriculture. With a shift in policy towards one of full agricultural production, this program was suspended. However, its potential future operation could act as a restraint on current production decisions and hamper complete adaptation to ongoing policy preferences.

Closely related to the concept of legislative suspension is that of contingency legislation which is enacted solely for the purpose of being enforced when a certain set of conditions occur. The Beef Import Quota Act of 1964 is one illustration of contingency legislation which was created to protect the United States livestock industry. The object of this Act was to restrict the amount of foreign beef allowed into the country if supply increased beyond a specified figure. In the discussion of this Act in Part II, it is noted that these legislative provisions were never actually enforced because exporting countries voluntarily reduced their shipments to the United States to avoid the restrictions which could be imposed. Although in this specific case the formulation of contingency legislation in fact accomplished its objective, it could have also adversely affected the image of the United States in the world market. In addition, this form of legislative implementation could have weakened the underlying policy base since it allowed the government broad discretion in following certain policy goals. This type of legislation not only reduces the confidence of

the producer and the domestic or foreign consumer that the government will continue in a purported policy direction, but also makes the government vulnerable to the demands of certain interest groups desirous of having legislative discretion exercised in a certain direction.

Specific cases have arisen where legislative provisions have inadvertently had self-defeating results. One illustration of this is the use of diversion payments to encourage participation in conservation programs. The primary policy goals of these programs has been to control supply by regulating the amount of land in production. However, the tendency of participating producers has been to devote the least fertile land to conservation purposes in exchange for payments, and consequently production has not declined noticeably. Further, if acreage diversion is undertaken on a year-to-year basis with retired fields being rotated annually, farm yield may even be improved, contrary to the anticipated outcome. The way in which the producer is able to manipulate the actual operation of his farm greatly reduces the intended impact of this method of production control with the result that, while coming within the four corners of the law, the producer is able to partially or totally avoid the intended effect of the legislation.

Aside from the fact that producers are able to circumvent the spirit of the set-aside laws, acreage control in itself can be an inefficient way of pursuing a policy of reduced production. Once the enabling legislation has been passed, farmers must respond by directing their production to conform to the relevant regulations. The seasonal nature of the agriculture industry

means that there is a considerable interval from the time the policy decision is made until the time that production is actually in harmony with the law. There is also the problem that control policy is based on an estimate of the amount of goods which will be required to supply the world market. Once again there is the onerous time span while production adjusts to anticipated needs, during which conditions may change so as to make demand estimates obsolete and irrelevant. External variables including weather, soil conditions and technological efficiency may all contribute to making supply management efforts imprecise. Hence, although the policy is formulated with certain specific objectives and the requisite legislation is enacted, factors beyond the control of the policy-makers and legislators may occur which will minimize or perhaps even nullify the impact of the policy on the agricultural sector.

In order to be effective, legislation must be enforceable. Terms must be included which provide for the administration of the law, whether this involves recordkeeping, bookkeeping, reporting, collection, or other such functions. In some cases, fines or penalties may be required, depending on the type of regulation involved. When these provisions are expressed adequately and completely, the operation of the legislation is easier to regulate and the government is better able to assess the success of the legislation in achieving the policy goals envisioned.

However, stringent administrative requirements may also tend to hinder the operation of the legislation or the pursuit of policy objectives in that the producer, processor

or handler, depending on the nature of the provisions, must devote increased time and effort to ensuring compliance with the law. The more demanding the administrative provisions are, the greater the likelihood is that trade and commercial relations will be impeded if not completely disrupted. Such regulations could even discourage certain domestic handlers or foreign trading partners from dealing in some over-regulated commodities. The implication is that the manner in which a law is drafted may actually defeat the policy which it is attempting to express. Part II of this paper will discuss in detail the effect of particular legislative provisions in achieving the expressed or implied policy goals of specific Acts.

2. LEGISLATIVE DESCRIPTION AND ANALYSIS

2.1 Soil Conservation and Land Use Programs

2.1.1 Soil Conservation and Domestic Allotment Act¹

2.1.1.1 STATED POLICY: To provide protection of land resources against soil erosion and thereby to preserve natural resources (S.1).

2.1.1.2 ANCILLARY PURPOSES: To relieve unemployment (S.1), to promote economic land use (S.7(a)(2)), to prevent and abate pollution (S.7(a)(6)), to establish a desirable ratio between farm and non-farm income (S.7(a)(5)), and to maintain sufficient and stable supplies for domestic consumption to meet consumer demand at fair and reasonable prices to producer and consumer (S.7(a)).

2.1.1.3 METHODS AND INSTRUMENTS OF IMPLEMENTATION

In order to implement the above policy objectives, the Act authorizes conditional payments or grants of aid directly to farmers (S.8(b)), acreage allotments (S.8(c)), and land use adjustment programs (S.16(e)). The Act also authorizes the expansion of markets for agricultural commodities (S.12(a)). These are technical terms which must be defined within the context of the Act.

"Payments" consist of financial remuneration given to the farmer in return for his participation in a conservation program pursuant to this Act. Presently, the maximum limit for the payment is set at \$2500. per person, as provided by an amendment to this Act found in the Agriculture-Environmental and Consumer Protection Act of 1974. In the past, it has been common for payment limitations to vary as economic conditions changed. The

¹Pub.L. 46, 74th Cong., 49 Stat.163, Approved April 27, 1935.

original maximum payment prescribed in the Soil Conservation and Domestic Allotment Act was \$10,000. per person (S.8(e)). Any payment made is required to be divided among landlords, tenants and sharecroppers of the farm in the same proportion that those people are entitled to share in the proceeds of the agricultural commodity produced there.

"Grants of aid" are items or services which the Government provides in order to promote good conservation practices. This includes seeds, fertilizers, lime, trees, or any other farming materials as well as soil terracing, soil-conserving or soil-building services. Pollution prevention and abatement aids may also be provided.

The amount of payment or grant of aid is that sum which is "fair and reasonable" as measured by the use of land for conservation or restoration purposes (S.8(b)(1)), any changes in land use (S.8(b)(2)), the producer's equitable share of production for domestic consumption (S.8(b)(3)), and the producer's equitable share of production for a combination of domestic and export consumption (S.8(b)(4)). Furthermore, any payments or grants of aid are conditional upon the use of land in conformity with farming or conservation practices as determined by the Secretary (S.8(d)).

Funds made available for payments are allocated among eligible commodities, taking into consideration (S.15(1)) the average acreage planted to the various commodities in the base ten year period from 1928 to 1937, adjusted for abnormal weather conditions and conservation diversion, (2) the value at parity prices of the production from the allotted acreages of the various

commodities for the year with respect to which the payment is made; (3) the average acreage planted to the various commodities in the ten year period from 1928 to 1937, including acreage diverted for agricultural adjustment and conservation, in excess of the allotted acreage for the year with respect to which payment is made; (4) the value, based on the average prices for the preceding ten years of the production, of the excess acreage determined under (3).

"Acreage allotments" for the purposes of this Act, are those acres for which payments or grants of aid will be made giving due regard to soil-building and soil-conserving practices undertaken on the land in question. The determination of acreage allotments is contingent upon the maintenance of a continuous and stable supply of agricultural commodities to satisfy domestic and export demands. That is, the acreage allotted to conservation programs for any year will be adjusted according to supply and demand. These allotments are apportioned among States and in turn among counties and farms. In the case of wheat and corn, the apportionment of the allotments is based on the acreage seeded during the ten years immediately preceding the calendar year for which the allotment is determined, subject to adjustments for abnormal weather conditions (S.8(c)(1)).

"Land use adjustment programs" are specific legislative measures for conversion of land to natural resource conservation use where the producer wishes to retire from farming, but remain on the farm. The agricultural producer enters into a contract with the Government providing for changes in cropping systems

and land uses, and for practices or measures to be carried out on their land for the primary purpose of conserving and developing soil, water, forest wildlife and recreation resources. In return, payments, grants in aid, and other assistance are provided to the farmer depending on the obligations undertaken by him.

"The expansion of markets" is provided for in the event that the regulation of land use or the pursuit of income equalization under the terms of this Act results in surplus production exceeding domestic demand (S.12). The Act states that amounts appropriated for this statute may be used to expand domestic and foreign markets or to seek new or additional markets for agricultural commodities. Such amounts may also be used for the removal or disposition of surplus commodities.

This Act is subject to the direction of the Secretary of Agriculture who is given broad discretion in applying and administering its terms. The Secretary is assisted by local and county committees of farmers (elected by their peers) and by State committees consisting of farmers appointed from among the county committees (S.8(b)). The Act also provides for the establishment of the "Soil Conservation Service", an agency authorized to exercise the powers conferred on the Secretary under this Act.

2.1.1.4 CONSEQUENCES AND IMPACT OF THE ACT

This Act, in the guise of conservation legislation, could also perform a secondary function, that is, production adjustment and consequently, price and income stabilization. Undoubtedly, the natural resource conservation provisions are effective in accomplishing their desired purposes. However, the

way in which this legislation is enacted also makes it a method whereby the Secretary could potentially exercise discretionary powers to stimulate or discourage production. This could be accomplished by means of this Act at a lower cost than were the Secretary to utilize direct production subsidies and acreage set aside as provided for in other legislation. The advantage of the latter, however, would be to allow for greater flexibility and efficiency in the responses open to the government in light of changing economic conditions.

For example, the Secretary could possibly manipulate production in compliance with the stated conservation policy goals by directing land use away from the production of certain crops in favour of natural resource conservation, or perhaps other farm uses, in times of surpluses production, lower prices, and lower farm incomes. However, he would also be able to re-direct the same land back into production during times of shortage and higher prices. The fact that the maximum payment under this Act is currently set at such a low amount may indicate that the government is not encouraging land to be taken out of production at this time. Alternatively, the land use adjustment program as discussed above is one means which could be used to promote the withdrawal of land from production. Further, in the case where the Secretary did use the provisions of this Act for the purposes of production adjustment, any surpluses which might result could be disposed of under the authority of the market expansion section of the Act. Finally, the promotion of economic land use (S.7(a)(2)) could be interpreted to mean a wide variety

of actions dealing with acreage production, crop prices, soil conservation, farm income, etc. Consequently, the Secretary could exercise his discretion quite justifiably in the pursuit of any policy objectives which could be characterized as "economic land use".

Thus, we can see that legislation, while attempting to accomplish one specific policy goal, could in fact serve a multiplicity of purposes if the policy objectives are broadly stated and the powers to execute the legislation sufficiently comprehensive.

2.1.2 Food and Agriculture Act of 1965. Title VI.²

2.1.2.1 STATED POLICY: To provide a program for cropland adjustment.

2.1.2.2 ANCILLARY PURPOSES: To reduce the cost of farm programs; to assist farmers in turning their land to nonagricultural uses; to promote the development and conservation of the Nation's soil, water, forest, wildlife, and recreational resources; to establish, protect and conserve open spaces and natural beauty (S.602(a)).

2.1.2.3 METHODS AND INSTRUMENTS OF IMPLEMENTATION.

For the purpose of pursuing the stated objectives of this Act, the Secretary of Agriculture was authorized, during the calendar years 1965 to 1970, to enter into agreements of five to ten year duration with producers of agricultural products. Hence, although the operational period of the Act has now expired, some of the agreements are probably still effective.

²Pub.L. 89-321, 79 Stat. 1206, Approved November 3, 1965.

As a condition of receiving an annual adjustment payment from the Secretary of Agriculture, the producer was required to agree to carry out and maintain certain prescribed practices which would conserve soil, water or forest resources, establish open spaces, or prevent air or water pollution, on a specifically designated acreage of land regularly used for crop production (S.602(b)). Those practices or uses most likely to result in the permanent retirement of land to non-crop uses were preferable. In addition, where the producer normally devoted some acreage to conserving crops or allowed it to remain idle, he was required to maintain the land in such state during the agreement. The producer could not harvest any crop from or graze the designated acreage unless determined necessary by the Secretary in order to relieve damage or hardship caused by some natural disaster. Further conditions could be imposed at the discretion of the Secretary as appropriate to protect the designated acreage from erosion, insects, etc.

In return, the Secretary agreed to pay a portion of costs of establishing or maintaining the practices authorized on diverted acreage and, as stated previously, an annual adjustment payment at such rate as the Secretary deemed fair and reasonable, taking into consideration the obligations undertaken by the producer. This rate could not exceed 40% of the estimated value of crops which might otherwise be grown on the diverted land (S.602(e)). However, the rate could be increased in relation to any benefit derived by the general public from the use of the designated acreage (S.602(c)). The latter payment would be made if the producer allowed public access to any designated

acreage for recreational purposes without charging admission.

The total acreage subject to agreements was a percentage of total eligible acreage in a county. Appropriate consideration was given to the productivity of the acreage to be diverted relative to that of the total eligible acreage in determining what percentage of land was to be retired (S.602(d)).

The Secretary was also authorized by this Act to transfer funds appropriated for the purposes of this program to any other Federal, State or local government agency for the purpose of acquiring cropland if such acquisition would have the effect of increasing the amount of cropland permanently retired to non-crop uses (S.602(i)). He could also share the cost with any State or local government in a program pursuing the same objectives as those set out in this Act (S.602(j)).

2.1.2.4 CONSEQUENCES AND IMPACT OF THE ACT

This legislation was enacted during a period of overwhelming surplus production in the United States but its effects continue well beyond its termination through a decade of uncertain harvests and drawn down reserves. The main objective of the program is to adjust the number of productive cropland acres downward by means of an incentive payment. However, in pursuing a short-term effort to avoid adding to existing surpluses, the legislators failed to consider potential changes in agricultural production and trade patterns which would result in the need for a different agricultural strategy.

The contracts entered into pursuant to this program could continue as long as 1980. Although there is a provision in the Act that the Secretary of Agriculture may terminate an agreement

should he determine that such action would be in the public interest (S.602(f)), his power is restricted by the fact that termination must be with the mutual agreement of the producer. Hence, such contracts must be considered binding on the Secretary unless this condition is met, although when market prices are high it is likely that the producer would agree to terminating the contract. Also involved are the political difficulties of government withdrawal from a program on which the farmer has based his long-term production planning.

The shortsightedness of this program is especially evident when considered in light of the present purported government policy promoting free trade in the agricultural marketplace with a minimum of government intervention or restriction. Static programs established in the days of surplus tend to hinder the effective operation or implementation of policies directed to current needs.

This Act placed a premium on the permanent withdrawal of farmland from production. Such a policy is of questionable value when viewed with the benefit of hindsight. With full production now being a government priority, it is likely that those lands previously retired should and will be brought back into production. However, depending on the length of time that the land has been devoted to other uses, there will probably be a considerable time lag between the time the decision is made to put such land back into production and the first harvest from that land. Therefore, the policy of permanently retiring cropland may weaken the ability of the agricultural sector to respond to current needs and interfere with the efficient operation of a free trade system.

One possible consequence of reducing or withdrawing productive cropland is to reduce the number of producers needed to participate in the farming process. The result is that such a program not only assists farmers in changing their land to non-agricultural uses but also may encourage or even force the farmer out of the production process. Here again the shortsightedness of this program is evident when full production is required as a result of large demand and short supply.

This Act makes use of the vehicle of land conservation in order to control production in a time of surplus. Conservation objectives are socially acceptable goals to consumers while support payments for non-production are not. The end result in both cases is the same but the terminology to achieve the desired goal is different. However, commitment to a long-term policy means that new directions must yield to outdated programs. It is possible that in order to obtain the desired degree of producer participation in this program, it was necessary for the government to promise an extended agreement. The price of this participation is the sacrifice of a degree of flexibility and amenity to change which is required to enable effective response by either government or individual producer to evolving economic conditions.

2.1.3 Agricultural Act of 1970, As Amended. Title X.³

2.1.3.1 STATED POLICY: To establish a program of rural environmental conservation.

2.1.3.2 ANCILLARY PURPOSES: To effectuate the purposes set out in the Soil Conservation and Domestic Allotment Act (1935) including preservation and improvement of soil

³Pub.L. 91-524, 84 Stat.1358, Approved November 30, 1970.

fertility, promotion of economic use and conservation of land, diminution of exploitation and wasteful use of national soil resources, protection of rivers against the results of soil erosion, prevention and abatement of agricultural-related pollution; to enlarge wildlife and recreation sources, to improve the level of management of nonindustrial private forest lands; to provide land stabilization, conservation and erosion control (S.1001).

2.1.3.3 METHODS AND INSTRUMENTS OF IMPLEMENTATION

To carry out the purposes of this Act, the Secretary is authorized to enter into contracts of from three to twenty-five year periods with owners or operators of land. The function of these contracts is to enable the producer to adapt his land to the desired objectives of this Act. However, any transition is subject to due consideration being given to maintaining a continuing and stable supply of agricultural commodities adequate to meet consumer demand at prices fair to both producers and consumers (S.1001).

In order to qualify for a contract, the landowner or operator is required to submit a plan of farming operations or land use incorporating those practices and principles practicable and a schedule of changes in cropping systems or land use to be carried out on the land in accordance with the purposes of this Act (S.1002). If the plan is acceptable to the Secretary an agreement is entered into for the effectuation of the plan on the condition that should the operator fail to fulfil the terms of the contract, based on plans submitted, he shall forfeit his right to any future government payments as well as refund all

past payments (S.1003).

In return, the Secretary of Agriculture agrees to make payments for the use of land maintained for conservation purposes and share the cost of carrying out those conservation practices. The Secretary is also authorized to make available to the producer conservation materials, including seeds, conditioners, trees and plants.

Pursuant to this Act, multi-year set-aside contracts may be entered into as long as they do not extend beyond the 1977 crop. Such contracts would require the producer to devote the acreage to a vegetative cover capable of maintaining itself and protecting the soil from erosion but grazing would not be allowed on such acreage (S.1005). In addition, the Act promotes a forestry incentives program to encourage afforestation and reforestation of suitable open lands (S.1009(a)). Percentage allotments are also made to a proportion of the acreage to be permanently retired (S.1006).

The Act is supervised by an advisory board in each State appointed by the Secretary of Agriculture for the purpose of determining the types of conservation measures acceptable for the purposes of the Act (S.1007(a)).

2.1.3.4 CONSEQUENCES AND IMPACT OF THE ACT.

This Act provides for contractual obligations to be undertaken in the interests of conservation and environmental protection while conditioning any agreements on marketplace demands. This could result in incongruity and incompatibility of goals since, on one hand, the government is looking to long-term commitments involving the withdrawal of land from

production and its devotion to purposes such as afforestation and erosion control while on the other hand the government is concerned with the availability of supply to meet demand at reasonable prices.

When land is taken out of production the source of supply is diminished. In times of surplus this is a desirable goal in an effort to avoid wasteful exploitation of resources and the accumulation of unnecessary supplies. However, as in the case of the Agricultural Act of 1965, such policy does not allow for adjustment when the demand for agricultural products increases. Because agriculture is highly susceptible to weather, pests or other natural forces, this absence of flexibility could have dangerous economic repercussions in terms of satisfying foreign requirements.

This program involves a planned and systematic approach to transferring land to conservation uses. The regulations and incentive payments have the effect of directing the use of land into those areas consistent with the policies expounded in the Act to such a degree that the producer, once he has decided to participate in the program, is forced to pursue it unless he is willing to return all prior payments made to him by the government. This puts considerable pressure on the producer to continue to participate in the program. Hence land use, and therefore production, is in fact subject to extensive legislative restriction, for the duration of the contracts.

These programs, however, could prove to be overly restrictive in that the producer may not be willing, or able, to respond to a shift in economic conditions creating a need to put set-aside

land back into production. Thus, the goal of land stabilization in fact defeats the promotion of economic land use, another goal sought by the Act, by hampering the ability of the producer to adapt to market conditions as required. Such a program could also adversely affect rural welfare should too much productive land be put to conservation uses since fewer producers would be needed to work the available land and greater rural unemployment could result.

2.2 Agricultural Adjustment and Marketing Quotas

2.2.1 Agricultural Adjustment Act of 1938⁴

2.2.1.1 STATED POLICY: To provide for the conservation of national soil resources and to provide an adequate and balanced flow of agricultural commodities in interstate and foreign commerce.

2.2.1.2 ANCILLARY PURPOSES: To preserve, maintain and rebuild farm land resources in the national public interest through the encouragement of soil-building and soil-conserving crops and practices; to assist in the marketing of agricultural commodities for domestic consumption and for export; to regulate interstate and foreign commerce in cotton, wheat, corn, tobacco and rice to the extent necessary to provide an orderly, adequate, and balanced flow of such commodities in interstate and foreign commerce through storage of reserve supplies, loans, marketing prices for such commodities and parity of income, and assisting consumers to obtain an adequate and steady supply of such commodities at fair prices (S.2).

⁴Pub.L. 430, 75th Cong., 52 Stat.31, Approved February 16, 1938.

2.2.1.3 METHODS AND INSTRUMENTS OF IMPLEMENTATION

This Act constitutes the basis upon which much of the agricultural legislation in the United States has developed. It encompasses broad areas of regulation in a variety of fields and for that reason each Title or subpart of the Act will be considered separately. Title I will not be discussed since that part merely contains amendments to the Soil Conservation and Domestic Allotment Act, found above.

Title II deals with adjustments in freight rates, new uses and markets for production, and the disposition of surpluses. The Secretary of Agriculture has no direct power to intervene in the matter of freight rates but he is authorized to make and prosecute complaints before the Interstate Commerce Commission with respect to rates, charges, tariffs and practices affecting the transportation of farm products (S.201). The market expansion and distribution goals are pursued mainly by the establishment of regional scientific research laboratories, devoting their work primarily to those commodities in regular or seasonal surplus. Funds are also allocated to the Secretary of Commerce for the promotion of the sale of farm commodities and products in both the domestic and world market (S.202).

Title III deals with loans, parity payments, consumer safeguards, marketing quotas and marketing certificates. In order to understand the operation of this part it is first necessary to discuss the meaning of "parity price".

"Parity price" for any agricultural commodity is determined by multiplying the adjusted base price of the commodity by a parity index. The "adjusted base price" is the average price

received by farmers for such commodity over a selected base ten year period divided by the ratio of the general level of prices received by farmers for agricultural commodities during that period, to the general level of prices received by farmers during the period from January, 1910 to December, 1914. The "parity index" is the ratio of the general level of prices for articles and services that farmers buy and wages, interest and taxes paid, to the general level of such prices, wages, rates and taxes during the period January, 1910 to December, 1914 (S.301(a)(1)(A)).

This concept is important in the determination of parity payments made by the government. When appropriations are available for these payments, they are made to corn, wheat, cotton, rice and tobacco producers in an amount sufficient to bring the proceeds from the sale of agricultural commodities up to parity price (S.303).

The consumer safeguard provision prohibits the use of the powers pursuant to this Act in any way which would discourage the production of supplies of food required for normal domestic consumption based on adjusted statistical consumption data for the base period 1920-1929. That is, the provisions of the Act are subject to the maintenance of a continuous and stable supply of agricultural commodities from domestic production adequate to meet consumer demand at prices fair to both producer and consumer (S.304).

Although the acreage allotment provisions for corn have been discontinued as a result of a 1958 referendum, they have merely been suspended until 1977 for wheat by the terms of the Agricultural and Consumer Protection Act of 1973. This means

that unless suspended further by another amendment Act, marketing quotas and acreage allotments will once again be applicable in 1978. Therefore, the regulations dealing with wheat should be discussed in light of their potential operation.

The legislative findings used to justify government intervention in wheat production and marketing are lengthy and focus on the economic implications of the wheat industry. The major concern is with the fluctuations between excessive and deficient supplies of wheat and the effects of this on interstate and foreign commerce. Accordingly, the objective of these provisions is to stabilize both supply and price of wheat by methods which will minimize recurring surpluses and shortages in interstate and foreign commerce, maintain adequate reserve supplies, provide an adequate and orderly flow of wheat at prices fair to both consumers and producers, and prevent any acreage diverted from wheat production from adversely affecting other commodities (S.331).

Marketing quotas are proclaimed by the Secretary to cover one or two year periods whenever he determines that the total supply of wheat is going to be excessive. The quota figure is arrived at by totaling the amount of wheat which will be consumed in the United States, the amount which will be exported from the United States, the amount used in the United States as livestock feed and the amount used in the United States as seed. From that figure is subtracted the amount of wheat imported into the United States and the amount of wheat held by the Commodity Credit Corporation in excess of the desired reserve stock level. The final quota may be increased to insure adequate carry-over

supplies, or may even be terminated should there be a national emergency or material increase in demand (S.332).

When the quota provisions are operative, a national acreage allotment is proclaimed, being the estimated number of acres required to produce an amount of wheat equal to the quota (S.333). This allotment is then apportioned among the States based on previous production in each State. This in turn is allotted among counties and finally among farms within a county.

The farm marketing quota is the actual production of the acreage planted less the farm marketing excess. The farm marketing excess is equal to twice the projected farm yield multiplied by the number of acres of wheat exceeding the farm acreage allotment. When marketing quotas are in effect, any farm marketing excess is subject to a penalty at a rate of 65% of the parity price per bushel. However, the Secretary is authorized to provide for storage and distribution of such excess, enabling the producer to avoid the penalty. In this case, any wheat delivered to the Secretary becomes the property of the United States government and is available to the government for disposition domestically and internationally for relief purposes in order to divert it from normal channels of trade and commerce and, consequently, avoid market disruption.

The proclamation of marketing quotas is subject to the results of a national referendum of producers. Should more than one-third of the farmers voting vote against quotas, then no quotas shall be in effect for the following calendar year (S.336). In this case, all previous marketing quotas are also terminated.

The producer may use acreage diverted from wheat production, in compliance with the quota provisions, for other crops as long as such crops are designated by the Secretary as not being in surplus supply or, alternatively, the producer is not producing wheat and is not receiving payment for his non-production, pursuant to any other government program. Otherwise, any crop production on diverted acreage will incur a penalty (S.339).

Provisions similar to those for wheat are presently in effect for rice in an attempt to promote an orderly flow of supply and stabilize the production and marketing of rice. Here again is a system of acreage allotments and marketing quotas subject to approval by referendum. In contrast with wheat, however, the provisions for the transfer of rice allotments are quite onerous, requiring a transfer of the entire farming operation, except the land, pertaining to rice (S.353(f)).

The Act provides for review of assigned quotas by a local review committee and the further right of the producer to institute court proceedings on the basis of an adverse decision by the review committees. Any court review is restricted to questions of law. The facts as determined by the review committee are deemed conclusive.

In order to enforce the provisions of this Act, there are extensive requirements regarding reports and recordkeeping by any party who may handle the products regulated by this Act. This includes warehousemen, producers, carriers, processors or anyone else who may be affected by the quota provisions. Such records and reports must be available to the Secretary on demand in order to avoid incurring any penalties or fines (S.373).

In 1962, a program of wheat marketing certificates and allocations was added to the Act in a further attempt to regulate the price of wheat used for both domestic and export purposes (S.379a). Although these sections are currently suspended they will be reinstated in 1978 unless the Act is amended further. For this reason, the provisions of this program will be outlined briefly.

Marketing allocations are determined by the Secretary of Agriculture as being the amount of wheat required for both domestic consumption and export needs. This national allocation is divided among the wheat-producing farms taking into consideration the farm's acreage allotment, its projected yield and the total national allocation (S.379b). Marketing certificates are issued on the basis of these projected requirements, enabling the producer to receive, in addition to other proceeds from the sale of wheat, an amount equal to the value of the certificates (S.379c(a)). Thus, the producer receives payment for wheat produced on his allocated acreage plus an amount which in fact compensates for the difference between his actual yield under the program and his projected yield under conditions of unrestricted production.

The currently operative provisions of the Act, effective through the 1977 wheat crop, regulate production by means of a program of set-aside cropland acreage. This is invoked when it is likely that the total supply of wheat, or other related commodities will be excessive, again taking into consideration the need for adequate carryover to maintain a reasonable and stable supply (S.379b(c)(1)). If the program is in effect, designated farmland must be set aside and used for approved

purposes in order for the producer to be eligible for any loans, payments or purchases pursuant to governmental support programs. In addition, the producer may be eligible for land diversion payments pursuant to this Act when the necessary funds are made available by the Secretary (S.379b(c)(2)). Production of alternative crops may be allowed on the set-aside if such production is needed to provide adequate supplies and as long as it will not increase the cost of the price-support program or adversely affect farm income.

Acreage allotments continue to be relevant since they presently constitute the basis for "target prices", a support program introduced in the Agriculture and Consumer Protection Act of 1973. That program will be discussed fully under the heading of the 1973 Act, below.

2.2.1.4 CONSEQUENCES AND IMPACT OF THE ACT

The Agricultural Act of 1938 represents a broad base for government restriction and intervention in the production and marketing process, with the burden of enforcement being delegated to those enterprises which receive or handle agricultural commodities as processors or distributors. The Act has been subject to several amendments and additions with various provisions being suspended or revoked in response to external forces. For these reasons there is a considerable lack of consistency and cohesiveness in the terms of the legislation, resulting in confusion as to the application of the law or the objectives which it is attempting to pursue.

As stated above, this Act is the point on which much of the agricultural production control policy in the United States rests.

It was enacted thirty-eight years ago and was based on legislation introduced in 1933. During the intervening years agricultural production techniques and potential have improved by the development and use of more efficient machinery and more effective fertilizers and pesticides. In addition, producers have greater access to the outputs of agricultural research in assisting them to increase the productivity of each acre farmed.

The evolution of agricultural production causes the value of this legislation to be questioned in that the Act was created to deal with circumstances which no longer exist. As economic conditions changed, the Act was modified by either suspending or enforcing the existing provisions. The end result is that the legislation cannot precisely meet the needs of the times. Thus, pursuing policy objectives by means of amendments to outdated laws creates a patchwork effect which blurs legislative intention and hampers its effective administration. In some cases the old and tested methods may be the best way to tackle production problems. However, when this approach is taken, it is inevitable that the time gap will result in compromising response efficiency.

A second problem in implementing policy by means of amendment is that it does not allow for innovation in policy making. Amendments must be made within the framework of the original Act and bear some relation to the provisions already enacted. Hence, any new terms introduced into the statute are subject to these constraints. This means that certain areas requiring legislative attention may be neglected since they cannot be brought within the scope of the Act. Further, an attempt to introduce incongruous provisions may be done with even worse results than if the area

of regulation were ignored completely.

Much of the confusion of the provisions of this Act could be resolved if steps were taken for its revocation and recodification with a view to satisfying current needs. It is difficult for producers and processors to conduct their operations on the basis of uncertain laws which may or may not be operative depending on the results of a referendum, in the case of marketing quotas, or the reinstatement of suspended terms, in the case of marketing certificates. It is also unrealistic for production and consumption controls to be calculated on an early twentieth century statistical base period, regardless of the fact that these figures are subject to adjustment.

The restrictions and controls found in this Act authorize extensive potential or actual government intervention in the agricultural process. In line with the trend towards a free trade system, some of the provisions have been relaxed. However, when all parts of the Act are operative, the result is that the government takes over the producer's role in making production decisions. For example, if marketing quotas are proclaimed the producers of the commodities are required to comply with them to avoid incurring rather heavy penalties. Although quotas are subject to ratification by the farmers affected, once they are in force, the producer is bound by them even though he may have rejected such a program. There is no incentive payment for complying with the quotas. The value of a quota system to a producer is only that national agricultural production and therefore supply is restricted with the result that prices are maintained at a higher level than were overproduction to occur. In the latter case,

supply would overwhelm demand and prices would fall.

The problem of a quota system is that the estimates of required production upon which the Government bases its quotas are not infallible. Poor weather, changes in economic conditions or natural disaster may alter the anticipated supply and demand pattern for an agricultural commodity. Government machinery is unable to adapt as rapidly as the individual producer to these changes affecting production decisions. The result is that the program impairs any immediate response to production needs.

As noted above, the quota program is enforced by penalty provisions which can be avoided if excess production is surrendered to the government to become public reserves. The existence of this stockpile in itself may have depressing effects on commodity prices. The Act stipulates that any production transferred to the government is to be used for domestic and international relief purposes. The fact that quantities required for government programs will be taken from reserve stocks means that these commodities will not be purchased in the ordinary course of trade and commerce. This decrease in demand in the marketplace will result in lower prices to the producer and hence the quota program may defeat its own purposes.

It is also possible that the government will be forced to yield to consumer pressure, both domestic and international, and release some reserve stocks into the market if the storage program becomes too burdensome. The stockpiling of reserves, not for the purposes of protecting against shortage but for maintaining a higher level of producer prices, is not a politically popular program in the eyes of the urban consumer. A release of these

commodities could probably be justified by the consumer safeguard provisions. Hence, the producer must contend with the threat of manipulation of the market by means of government-controlled reserve stocks.

The collection and payment of any penalties incurred under this Act are the responsibility of the purchaser with the right of set off of such amount against the purchase price. For this reason the legislation prescribes extensive reporting and record-keeping requirements by any parties who may be subject to the payment provisions. It goes without saying that regulations are useless unless they are enforced. However, onerous enforcement provisions may have the effect of severely hampering the efficiency of trade and commerce and discouraging certain processors **or handlers from** dealing in those products subject to regulation. Thus, the effect of government intervention in the market may be the unintentional disruption of trade.

Similar results may follow from the administrative review provisions, providing for appeal of acreage allotments and quotas, first to a review committee and further to the courts. Producers are constrained by the fact that they must operate within the seasonal cycles. The length of the appeal may result in the producer being unable to plant his crop in time, or alternatively, he may overplant his acreage in anticipation of a favourable decision on appeal and be penalized if the decision is adverse to his interests. Here again the production process is weakened and impeded by the administrative necessities of the Act.

The current provisions, requiring acreage to be set aside for conservation purposes in order for the producer to be eligible

for government support payments indicates an easing in the production control strategy. The decision is left to the producer rather than being dictated by law. However, there is a strong incentive for the farmer to participate in this program when commodity prices and producer income are low. The problem with the set-aside requirements is that even emergency and disaster relief in the event of adverse weather or crop destruction is based on the acreage restrictions. If the farmer planted in excess of a specified acreage, his eligibility for payments would be reduced. It is conceivable that no payments would be forthcoming, regardless of the circumstances, if the producer failed to comply with the acreage allotment provisions of the Act.

A second problem with set-aside acreage provisions is that the government is again dictating the market forces to which the producer is required to respond rather than allowing the farmer to produce in a free market. Such inflexible land use control impairs the ability of the production process to adapt efficiently to economic change.

The objective of this Act is to provide control mechanisms for both the production and marketing of agricultural commodities in an attempt to stabilize farm prices and incomes. The legislation, however, could impede current government policy of full production in an unrestricted market since the potential operation of control provisions could create a blanket of insecurity for the producer.

2.2.2 Agriculture and Consumer Protection Act of 1973⁵

2.2.2.1 STATED POLICY: To extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers plentiful supplies of food and fiber at reasonable prices.

2.2.2.2 ANCILLARY PURPOSE: To alter and amend existing government programs dealing with the following subject matter: dairy products, wheat, feed grains, foreign aid and disaster relief, rural conservation, food stamps and related areas.

2.2.2.3 METHODS AND INSTRUMENTS OF IMPLEMENTATION

This Act represents a compilation of amendments to various pieces of legislation in an attempt to update, extend or suspend the operative provisions of the law. Although it is the most recent and comprehensive statement on the agricultural policies pursued in the United States and will remain so until 1977 when many of its provisions expire, the Act is totally dependant on the existence of antecedent legislation.

One of the first priorities of the statute is to decrease and limit the amount of any payments made in accordance with governmental support programs. The total for which a producer might be eligible under any one or more support programs is \$20,000, subject to the condition that the amount of acreage required to be set aside may be reduced if this monetary limitation has the effect of decreasing the amount of payment normally received by the producer (S.101(3)).

The provisions relating to dairy products deal principally with the extension of price support and indemnity payment programs. Indemnity payments are made to those dairy farmers and processors

⁵Pub.L. 86, 93rd Cong., 84 Stat. 1358, approved August 10, 1973.

who have been directed by government to remove their milk and dairy products from the commercial markets because these products contain residues of chemicals which had at one time been authorized by the Federal government. These payments continue until the farmer is reinstated and once again allowed to dispose of his milk on the commercial markets. The Act also authorizes the commissioning of a dairy import study to determine the impact of increased imports on dairy producers, handlers and consumers (S.101(5)(B)).

The amendments to the wheat program include the introduction of a wheat production incentive program based on "target prices". For 1974 and 1975, the target price per bushel of wheat is set at \$2.05. This figure will be adjusted upward for the 1976 and 1977 crops to take into account the index of prices paid by the farmer as well as any changes in farm acreage yield. If a farmer decides to participate in the program, he is entitled to receive deficiency payments of the amount by which the national average price received by farmers during the first five months of the marketing season is less than the target price. Payments are calculated only on production from acreage allotments (S.101(8)(D)). Loans and purchases are also made available, taking into consideration the competitive world prices of wheat, its feeding value in relation to that of feed grains and the price support available for feed grains. The figure determined cannot exceed the parity price but must be more than \$1.37 per bushel.

The complex method used in determining the actual payment to which the producer is entitled means that not all farmers will qualify for assistance pursuant to the program. The actual

payment is calculated by multiplying 1) the amount by which the higher of (i) the national weighted average market price received by the farmers during the first five months of the marketing year or (ii) the loan level 1) is less than the established price of \$2.05 per bushel, indexed for the 1976 and 1977 crops to reflect higher input costs, times in each case (2) the allotment for the farm for each crop, times (3) the projected yield established for the farm as adjusted to provide for a fair and equitable yield.

If the producer is prevented from planting because of natural disaster, any payment made to him is based on the larger of the payments as calculated above or one-third of the established price. If, because of such disaster the total quantity which the producer is able to harvest is less than two-thirds of the farm acreage allotment times the projected yield of wheat, payment for any deficiency is calculated according to the same formula as were the farmer prevented from planting.

A similar "target price" program is established for feed grains, including corn, barley, oats and rye. The target price for corn is set at not less than \$1.38 per bushel in 1974 and 1975 and is subject to indexing for 1976 and 1977. The target levels for the other feed grains supported are based on those established for corn. Payments are calculated by the same method as for wheat, based on acreage allotments and average yield data. There are also similar provisions for partial payment in the event that a crop cannot be planted or harvested because of natural disaster (S.101(17)).

In addition, loans and purchases are made available for feed grains also based on the rate established for corn, at such level as the Secretary determines will encourage the exportation of feed grains and will not result in excessive total stocks of feed grains in the United States (S.101(18)(A)). For corn, the level may not be less than \$1.10 per bushel but not more than 90% of the parity price.

This Act is the mechanism whereby the Agricultural Act of 1938, discussed above, was amended to suspend wheat certificates, processor certificate requirements and wheat marketing quotas. It also provides for a program of acreage set-aside, limited to a national maximum of thirteen and three-tenths million acres, as a condition of eligibility for government loans and support payments, as well as a system of acreage allotments which is required for the operation of other regulatory programs. All of these amendments were discussed in the context of the Agriculture Act of 1938. In addition, however, there is a provision with respect to wheat storage for the purpose of avoiding excess production penalties, which authorizes the release of wheat stored by the producer in return for delivery to the Secretary of a specified value of production certificates previously issued to the farmer. Any release of stored wheat is subject to a prior determination by the Secretary of Agriculture that such action will not adversely affect market prices for wheat (S.101(14)).

This Act provides for amendments to foreign assistance legislation by extending the operation of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), to 1977 (S.101(26)). This legislation is discussed in its entirety under

the heading "Price Supports, Sales and Other Disposal". A disaster reserve program is also established requiring that 75 million bushels of wheat, feed grains and soybeans be kept in permanent inventory for the purpose of "relieving distress resulting from a natural disaster" (S.101(27)).

Various research programs into areas such as wheat, feed grains, dairy products and livestock production, as well as export expansion are authorized. In an attempt to monitor export requirements, export sales reporting on a weekly basis is required by all those involved in the export of wheat and feed grains. In the area of import regulation, a policy of encouraging the production of any commodity of which the United States is a net importer is pursued by allowing those commodities to be grown on set-aside acreage without such action impeding the producer's eligibility for set-aside payments.

In furtherance of the consumer protection objectives expressed in the title of the Act, a provision has been introduced requiring the Secretary of Agriculture to assist farmers, processors and distributors in obtaining such prices for agricultural products as will guarantee an orderly, adequate and steady supply of commodities to the nation's consumers (S.101(27)). In order to further this goal, the Secretary is directed to implement policies under this statute which are designed to encourage farmers to produce to their full capacity during periods of short supply in an attempt to assure consumers of an adequate supply of agricultural goods at fair and reasonable prices.

The rural environmental conservation program is established by this Act for the purpose of pursuing similar objectives as those enumerated in the Soil Conservation and Domestic Allotment Act, discussed above. As in the latter piece of legislation, the program authorizes the execution of short and long-term contracts, requiring producers to set aside specified farm acreage for predetermined conservation purposes in return for government payments and grants in aid. The provisions, however, are subject to the condition that sufficient and stable supplies at fair and reasonable prices be maintained to meet consumption requirements. In addition to the conservation uses, a multi-year set-aside may be authorized requiring only that the acreage be devoted to a vegetative cover capable of maintaining itself and preventing soil deterioration or erosion. This latter program is limited to the 1974-77 period.

In the area of domestic food assistance programs, provisions are set out for the extension of the Food Stamp Program to certain groups of people not previously eligible. In addition, the use of food stamps is authorized for the purchase of seeds and plants enabling the recipient to produce his own food. This Act is discussed in its entirety below. Appropriations in excess of the needs of other specified programs are reallocated to maintain the current levels of assistance for schools, domestic relief distribution and other authorized domestic food assistance programs. Provision is also made for funds of the Commodity Credit Corporation, the major vehicle for administering agricultural programs in the United States, to be used for the purchase of agricultural commodities to be distributed to these

domestic programs when the Corporation itself does not hold sufficient stocks to satisfy the requirements of the programs.

2.2.2.4 CONSEQUENCES AND IMPACT OF THE ACT

Although this Act serves to amend the provisions of the Agricultural Act of 1970, the purpose of the latter piece of legislation was also mainly to formulate amendments to prior enactments. Hence, the main function of the Agriculture and Consumer Protection Act of 1973 is to extend the legislative authority for policies pursued since the early 1960's and even earlier. There is, however, an increasing tendency in government policy, as expressed in this Act, to move away from administrative intervention in the agricultural process, although the mechanisms continue to exist which, if exercised, would afford government interference.

The reduction in the amount of support payments for which a producer may be eligible under any one or more programs indicates an attempt by the government to move out of the area of subsidized agricultural production. However, the fact that this limit does not apply to government loans, purchases or any payments representing compensation for resource adjustment suggests that the administration is attempting to encourage production by making funds available to the producer, but discouraging overproduction of unrequired goods. One of the major obstacles hampering the producer is the availability of private credit. The existence of this government-sponsored system of nonrecourse loans and guaranteed purchase enables the farmer to make his own production decisions while also being assured of the extension of debt financing. It has been argued that the loan and purchase

scheme could, if misused, encourage excessive stockpiling by the government as a consequence of the mandatory purchase provision in full satisfaction of the loan. However, as long as loan levels continue below market price, this is unlikely to happen.

One disadvantage of the \$20,000 limit is that it also applies to any payments made pursuant to the emergency or disaster relief programs. It is quite conceivable that a producer's loss of investment could easily exceed this maximum payment figure if prevented from planting his crop by reason of natural disaster. His loss would be even larger if the crop were planted but destroyed prior to harvest since in that case an additional investment would have been made in fertilizer, seeds and pesticides as well as in labour. It is reasonable, therefore, that the limit should be higher in these special circumstances. Otherwise, in an unavoidably bad production year, producers could easily find themselves faced with bankruptcy regardless of government assistance, with the result that many of them could be forced off the farm.

The target price program has been one of the most controversial amendments made by this Act. One of the primary criticisms has been that the program underwent extensive modifications when first introduced in order to make it more politically palatable to the various Congressional and Senate interests. This meant that some of the initial aims and objectives were sacrificed with a resulting diminution in the effect of the program.

One such compromise was in the actual amount of the target price. Although the price appeared to be fair at the time, the

unanticipated consequences of inflation proved the payment program to be ineffectual within the first year of operation. The prices of the commodities generally exceeded the target prices but producers were confronted with rapidly increasing costs of production inputs. Hence, according to testimony by producers before the United States Senate Committee on Agriculture and Forestry (1975), target prices in the amounts legislated failed to maintain a satisfactory level of farm income. It has been argued that the only people who could benefit from the target price program were those large producers whose costs were lowered by being spread over a larger area and who could profitably sell their production below the target price level, thus qualifying for a deficiency payment.

Although the Act was originally drafted to apply indexing to all production years from 1974 to 1977, this was modified in the course of passing the legislation to make the indexing provisions applicable only in the last two years of operation, that is, 1976 and 1977. In retrospect, the shortsightedness of this modification can be seen. Target prices fell well below a realistic level during the first two years of the program and because the market price was above the target level, few producers qualified for payments regardless of the fact that proceeds from the sale of their crop failed to compensate their costs of production. The result was that over the first two years the program was relatively inexpensive for the government but, on the other hand, seemed to be inadequate to the producers. This will be partially rectified in the last two years of the program when the index provisions become operative.

A second problem encountered by the farmer is that the program is strictly tied to projected yield estimates based on

acreage allotments. If production exceeds the estimated yield or if the producer plants in excess of his allotment, the amount of payment for which he qualifies pursuant to the program is diminished accordingly. In some cases, a variation in yield or acreage may alter his production figures to such an extent that the producer is ineligible for any payments. The reason for this is that his total proceeds from production are considered as if they were derived from the acreage allotted. This has the effect of enhancing the amount calculated, for the purposes of this program, as being the proceeds per bushel.

These provisions create a particular anomaly when the government decides to pursue a policy of encouraging full production with minimal government intervention. If the producer gauges his production in accordance with expressed government policy, he does so at the risk of losing his entitlement to deficiency payments if prices are pulled down because of excess supply. He must choose between the alternatives of planting within his allotment and preserving his eligibility should prices fall or planting all of his productive land on the expectation that he can sell his total crop at reasonable prices. The government will pay no indemnity if the producer undertaking full production is adversely affected, outside of what he may possibly qualify for under the target price program.

The emergency and disaster relief provisions are formulated on the target price scheme. This means that, in order for the producer to be eligible for any compensation when natural causes prevent planting or greatly reduce the crop harvested, he must have participated in the target price program by planting within

an acreage allotment. As in the case of target prices, the farmer's total proceeds from production are considered to have been derived from a specified allotment, not from total productive acreage. As stated previously, this may increase the deemed proceeds per bushel above target price levels and hence disqualify the producer from receiving any disaster payments, regardless of the actual loss incurred.

This program creates an inherent inequity in that the producer who takes the risks of pursuing the government espoused policy of full production does so without any government commitment of support if emergency conditions should occur. The very existence of an allotment program indicates that in fact there is an attempt to limit production regardless of government policy statements. The legislation encourages a cautious approach to production decisions. If the producer stays within stated guidelines, he is assured of a certain amount of insulation, both against market forces and other causes. Otherwise, the producer is almost entirely without external support. All farmers must sell to the same market at the same prices but protection is offered only to the ones who limit their production. If the government is advocating full production, it should provide equal assistance for all producers.

Complementary to the acreage allotment scheme, this Act continues a set-aside program whereby farmers are required to devote a specified percentage of their allotments to conservation purposes in order to be eligible for government loans and deficiency payments. This percentage is in addition to any cropland devoted to soil conservation purposes in prior years.

The program is enforced by the Secretary of Agriculture when it is determined that surplus production in excess of domestic and export requirements will occur. One deficiency of a set-aside program is that it is the least productive acreage which will probably be devoted to conservation uses. Hence, overall yield will not decline proportionally to retired land. Further, the producer may annually rotate the fields which he devotes to the set-aside program with the possible result that the fields may become more fertile and produce an increased yield per acre.

Although the program is operative only when declared necessary by the Secretary, it does constitute another potential mechanism for government intervention. The uncertainty of its application may act as a restraint on production decisions. The fact that , when in force, the provision requires all lands devoted to conservation uses at that time to be continued as such may discourage producers from taking land out of production voluntarily.

There is an orientation in this Act towards national agricultural self-sufficiency while also promoting the expansion of export markets. One example of this is the continuation of price support for dairy products and the commissioning of a study to determine the impact of imports on the dairy industry. Dairy producers and processors have been one of the highest subsidized and most protected groups in the American agricultural spectrum. The objective of government seems to be to insure a certain level of domestic production of dairy commodities regardless of the cost of such programs. It has been suggested that these

price and income subsidies should be terminated and a greater emphasis should be placed on dairy imports. It is argued that this would be advantageous to the American trade position in the world market by increasing export demand for commodities which the United States can produce effectively. There are certain advantages in promoting self-sufficiency in production but these advantages may be minimal when the benefits are weighed against the costs, whether financial, administrative or strategic.

In line with the promotion of self-sufficiency, the government allows the planting on set-aside acreage of those commodities of which the United States is a net importer. From one point of view, this may in fact represent a contradiction of the goals expressed in the Act. One of the stated policy objectives of the set-aside program is to devote acreage to conservation uses, presumably for the purpose of rebuilding the soil or expanding "open spaces" for recreation. Since the Act doesn't specifically provide that only soil building crops may be planted on set-aside acreage, it seems that the conservation goals are willingly sacrificed if the result is a decrease in net imports. Here again, the legislation does not take into account the world trade position and the fact that the production of certain crops in the United States may not be economically feasible. This also underlines the premise that the set-aside provisions serve primarily a production adjustment function with secondary functions which may or may not be dispensed with.

The export monitoring provisions were introduced into the Act as a result of the great drain on surplus stocks in the early 1970's after world-wide crop failures. It was felt that weekly reporting by all grain exporters was necessary in order to prevent excessive supplies from leaving the country to the detriment of the domestic consumer. As shortages threatened, this was a necessary measure but in times of potential over-production, the value of this provision is questionable. Monitoring and reporting requirements have the effect of impeding the flow of trade by slowing commercial interaction. It also represents the continual presence of government in the agricultural marketplace.

The disaster reserve provisions represent one of the first efforts in the United States to expressly build reserve stocks, although the quantity is limited to a small amount. In previous years, the government has been faced with continual agricultural surpluses resulting in unavoidable stockpiling. When this was abruptly drawn down, the need for an emergency reserve became evident. The maintenance of government stocks is criticized by some groups as representing a constant threat to producer prices in that these stocks may be arbitrarily released in the market as a means of moderating prices. This could be enhanced by consumer pressure to make such stocks available. Alternatively, the necessity of reserve stocks when supply is diminished by natural disaster or other causes is self-evident. The legislative compromise in building limited stocks is a justifiable course of action although whether in fact the supply is adequate will not be tested until the reserves are actually required.

The general tendency expressed in this Act is to allow the producer more flexibility in making his own production decisions while providing some support financing should it be needed. In some ways, this legislation is presented as an experiment in withdrawing from government intervention while retaining the authority to reassert production and marketing controls should the experiment fail. As an amendment Act, it is limited in the areas and extent of regulation possible and for that reason, it probably does not go far enough in promoting free trade and loosening restrictive provisions.

The title of the Act itself shows that consumer influence is being felt in the areas of agricultural production and pricing. Provisions authorizing the Secretary to take steps designed to encourage full production in order to guarantee an adequate supply to the consumer illustrates a growing responsiveness to those particular interests. This change in direction has been partially attributed to the increased urban representation in Congress. In fact, however, this is not a consumer protection statute, regardless of the terminology used. All measures revolve around the productive capacity of the farmer and even those provisions purportedly dealing with the consumer aspects do so by circumventing the issue. It will be noted that those provisions centre upon obtaining commodity prices for the farmer which will assure a continued supply of food for the consumer. The main emphasis is on keeping the producer in business and maximizing export earnings for balance of payments reasons rather than on making a concerted effort to stabilize or reduce consumer prices. This is an example of legislation being couched in politically acceptable terms while the actual operation of the provisions may have different ramifications.

2.3 Price Supports, Sales and Other Disposal

2.3.1 Commodity Credit Corporation Charter Act⁶

2.3.1.1 STATED POLICY: To provide a Federal Charter for the Commodity Credit Corporation.

2.3.1.2 ANCILLARY PURPOSE: To stabilize, support and protect farm income and prices; to assist in the maintenance of balanced and adequate supplies of agricultural commodities, products thereof, foods, feeds and fibers (i.e. "agricultural commodities"); to facilitate the orderly distribution of agricultural commodities; and to accomplish these objectives by means of a body corporate known as the Commodity Credit Corporation, being an agency and instrumentality of the United States within the Department of Agriculture, subject to the general direction and supervision of the Secretary of Agriculture (S.2).

2.3.1.3 METHODS AND INSTRUMENTS OF IMPLEMENTATION

The primary purpose of this Act is to create a corporate entity with the power to deal in agricultural commodities on behalf of the Government and to operate and maintain agricultural programs pursuant to legislated policy. In other words, the Commodity Credit Corporation is the vehicle whereby policy objectives are pursued. By the terms of its Charter, the corporation is given all of the usual corporate powers enabling it to carry on business in the normal course of trade and commerce with certain specific privileges and immunities generally granted to a government instrument (S.4).

However, provisions for some rather specialized corporate duties are also legislated (S.4(h)). In warehousing commodities, the corporation is required by law to utilize the usual and

⁶ 62 Stat. 1070. Approved June 29, 1948.

customary channels, facilities and arrangements of trade and commerce to the maximum extent practicable, consistent with the corporation's purposes and the effective and efficient conduct of business. It is also required to encourage grain storage on the farm where it can be stored at the lowest cost. To facilitate this, the corporation is authorized to make loans to grain growers needing storage facilities with the provision that any loans so made would be deducted from the proceeds of price support loans. Another unusual provision is the authorization for the corporation to barter. That is, the corporation may accept strategical and critical materials produced abroad in exchange for agricultural commodities. Any such exchange is again required to be made through normal commercial trade with priority given to easily storable commodities serving as prime incentive goods to stimulate the production of critical and strategic materials.

In order to fulfil the purposes and policies set out, the Act grants specific powers to the corporation (S.5). Included are the powers to support the prices of agricultural commodities through loans, purchases, payments and other operations; to supply to producers and processors any materials and facilities required in the production and marketing of agricultural commodities; to procure agricultural commodities for sale to other government agencies or foreign governments, for domestic, foreign or international relief agencies, and for satisfaction of domestic needs; to remove and dispose of surplus agricultural commodities; to increase domestic consumption by expanding domestic markets and developing new markets; to export, and to develop foreign markets for, agricultural commodities; and to carry out any other

operations as required by Congress. Here again, in any purchasing or selling operations, the corporation is required to use the normal and customary channels of trade and commerce whenever possible.

As with any other corporation, the Commodity Credit Corporation is managed by a Board of Directors, assisted by an advisory board of five people having both agricultural and business experience (S.9). All of the authorized capital of the corporation is subscribed by the United States government (S.7) and the company is authorized to use all of the funds and assets held by it in the conduct of its business (S.8).

2.3.1.4 CONSEQUENCES AND IMPACT OF THE ACT

The Commodity Credit Corporation (C.C.C.) provides a means whereby the administration of all agricultural adjustment and support programs is centralized in one agency. The fact that the C.C.C. has corporate status allows it a degree of flexibility and independence in its commercial transactions regardless of the fact that it is subject to the scrutiny of the Department of Agriculture.

Agricultural administration by means of only one agency contrasts sharply with the situation in many countries where each commodity may be governed by a separate administrative body. For example, some countries pursue their agricultural programs by means of a series of marketing boards, each one autonomous in dealing with its particular commodity. The problem with this approach is the absence of a coordinated effort in dealing with overall agricultural policy directions. Each unit may operate in competition with the others. This potential conflict of

objectives or goals may eventually weaken the individual parts and detrimentally affect the general administration of agricultural policies. It may also promote inconsistency in the application and execution of agricultural programs.

The advantage of system of policy administration involving only one agency is the uniformity of application of the programs. It creates an integrated approach in dealing with all the aspects of agriculture and diminishes the possibility of conflicts of interests and redundancy of regulation arising between government agencies. Although the requirements of the producers of various commodities differ, a unified approach in executing policy objectives is generally more efficient than one which is fragmented and disjointed. There is also the advantage that the existence of only one agency is administratively more effective in that it reduces the size of the bureaucracy with which the producer must contend.

One potential disadvantage of a one-agency system is that it may take an over-simplified view in executing the programs with which it deals and fail to allow for the individual requirements of the commodities dealt with. As well, it may fail to adequately discern the needs of the producers and the factors affecting their production decisions with respect to the crops being produced.

The Commodity Credit Corporation is endowed with broad powers for the purposes of price and income stabilization, production adjustment and marketing control. It represents the delegation of power from the Secretary of Agriculture to a corporate body for the purposes of making and carrying out

commercial decisions with respect to agricultural products.

The provisions regulating the conduct of the corporation suggest that the government is seeking to ease restrictive measures and encourage greater self-determination on the part of the producer. One example of this is the availability of government financing for the purposes of constructing adequate storage facilities on the farm rather than promoting centralized government-owned storage. This has the effect of giving the producer more responsibility in the area of supply management and enabling him to store or release his crop in accordance with market trends. His crop is readily available to him, even though in some cases it may be subject to a government lien for outstanding loans. The farmer has the choice of retaining his crop until favourable selling conditions exist, or he may forfeit his crop to the government in satisfaction of the loan should prices fall to an unanticipated low level. Under either circumstance, the producer is able to participate to a greater extent in the marketing decisions affecting his crop.

The shift in storage policy has resulted in a large saving to the government because of its diminished monetary involvement. Credit is extended to producers to finance the construction of storage facilities but the government is no longer investing in publically owned grain elevators. Further, as noted above, private storage takes grain stockpiles out of the control of the government and hence relieves the threat of these stocks being released under political pressure for the purposes of depressing prices. This shift has also increased the necessity for importing countries to develop their own storage facilities. During the years of

government-owned stockpiles, importing countries were always assured of sufficient supplies. However, with stocks subject to market forces, this availability cannot now be so readily assured.

The Act requires that the Commodity Credit Corporation carry on its activities through the normal channels of trade and commerce. This requirement may in fact represent a subsidy to private business in dealing with the quantities of goods handled by the C.C.C. each year. Depending on the volume of business handled, it may be more economical and efficient for the corporation to have its own transport fleet, warehouses, credit institutions or any other facilities instrumental to carrying on its business. This provision could possibly have the effect of confining the manner in which the C.C.C. can carry on its business with the result that program administration could become more expensive and less efficient than it need be.

The power to barter with agriculture commodities for strategic goods combined with the objectives of developing foreign markets and promoting export introduce an element of international diplomacy into the Act. Not only is the C.C.C. a vehicle for pursuing domestic agricultural programs; it is also a means of furthering foreign and trade policy in the guise of agricultural legislation. The agricultural industry is becoming increasingly important in the United States for the purposes of decreasing the international balance of payments deficit. The above provisions show a recognition of this fact and encourage the C.C.C. into the international agricultural market. This creates a possible conflict of interest within the structure itself since,

on the one hand, the corporation is attempting to stabilize agricultural prices and incomes for American farmers. However, on the other hand, in participating in the international payments problems, the corporation has the power to encourage all-out production for the world market which may or may not be able to absorb all of the goods produced at prices providing agricultural producers in the United States with a reasonable return. It is possible for domestic and international policy objectives to complement one another. However, care must be exercised in methods of implementation used in order to avoid adverse effects on the agricultural industry.

This Act functions mainly as a conduit in realizing the programs propounded in other pieces of legislation. It is the primary mechanism for pursuing government policy but has the advantage of being an independent agency set apart from the administrative process. The fact that it is given such broad powers in dealing with agricultural products makes it an effective bargaining agent able to operate in an open market system.

2.3.2 Agricultural Act of 1949⁷

2.3.2.1 STATED POLICY: To stabilize prices of agricultural commodities.

2.3.2.2 ANCILLARY PURPOSES: To make available through loans, purchases or other operations, price supports to cooperators for any crop of any basic agricultural commodity if producers have not disapproved marketing quotas for such crop, at a level not in excess of 90 per centum of the parity price nor less than established levels (S.101).

⁷P.L. 439, 81st Cong., 63 Stat., 1051. Approved October 31, 1949.

2.3.2.3 METHODS AND INSTRUMENTS OF IMPLEMENTATION

The provisions of this Act consist mainly of those amendments made by the Agriculture and Consumer Protection Act of 1973, discussed above. This includes the suspension until 1978 of price support and parity payment programs pursued prior to 1971, the continuation of set-aside provisions, and the introduction of the target price system for wheat and feed grains. In addition, the Act defines the context in which those amendments operate and outlines certain regulations instrumental to the operation of those amendments. One such provision is that referring to the proclamation of acreage allotments. These are determined on an annual basis, prior to January 1 of the calendar year for which production is regulated (S.101(a)(2)). The criteria is the number of acres required to produce sufficient quantities to meet both domestic and export demand less estimated imports. This figure may be adjusted as necessary to either increase or decrease carry-over stocks.

The Act also regulates the terms of allotment eligibility. If the producer fails to plant his total allotment in any year, his authorized acreage may be reduced by up to 20% for succeeding years. If the producer doesn't plant at all for three consecutive years, he may lose his allotment altogether (S.101(b)(3)). This would make the producer ineligible for government-sponsored support payment programs. The amount, terms and conditions of these price support operations and the extent to which the programs are pursued are determined at the complete discretion of the Secretary, taking into consideration certain prescribed factors (S.401). Support exceeding the maximum legislated level

may be made available if, after a public hearing on the issue, it is determined that an increase is necessary to prevent or alleviate short supply of any commodity (S.402).

The specifications with respect to nonrecourse loans offered by the government are also set out in this Act. The principle of these loans is that the crop itself represents the collateral for the loan. If prices fall so low that prices on the open market are lower than the loan level, then the crop may be presented to the Commodity Credit Corporation and must be accepted by it in complete satisfaction of indebtedness. A producer cannot be held personally liable for any deficiency arising from sale by the C.C.C. of the collateral security unless the producer failed to properly care for or preserve the collateral kept on his property (S.405). Further, the C.C.C., as a result of the loan agreement, may acquire title to any collateral not redeemed by the farmer without having to pay the producer for the excess value over the indebtedness. That is, any indebtedness may be satisfied only by payment of the outstanding loan or by forfeiting the secured crop to the government. There are no other obligations on the part of either the producer or the government.

Once the Commodity Credit Corporation has acquired ownership or control of a crop, it may sell the crop in the market subject to certain restraints. The prices for which the commodities are sold must not have the effect of discouraging or deterring manufacturing enterprises from acquiring normal inventories (S.407). That is, no sale may be made at less than 5% above current support prices plus carrying charges. Even more stringent are the provisions for wheat, corn and feed grains which require that sale

must be made at a level at least 115% above the current national average loan rate. However, as an alternative means of disposal, the C.C.C. is authorized to make the commodities held by it available for the purposes of relieving distress when any area in the United States is declared by the President as being an acute distress area because of unemployment or any other economic cause. Distribution of C.C.C. stocks is also authorized in connection with any major disaster warranting assistance.

This Act also authorizes the disposition of government-held stocks in order to prevent waste. In fact, this provides the source of commodities required for the operation of both domestic and foreign food aid programs. In addition, these disposal sections authorize the use of C.C.C. stocks for the purposes of aiding the balance of payments problems by using these products in exchange for commodities which the United States must import.

2.3.2.4 CONSEQUENCES AND IMPACT OF THE ACT

The purpose of this Act is to provide a mechanism whereby price support programs may be carried out. It also authorizes disposal and distribution of excessive government stocks acquired pursuant to support legislation. Although the statute was enacted in 1949, its operative provisions are derived principally from the Agriculture and Consumer Protection Act of 1973. It exemplifies regulation by means of amendments to earlier Acts rather than by the introduction of new and self-sufficient legislation. Currently, former price support programs are accomplished by means of target prices. However, the previous support programs will resume operation in 1978 unless further

suspended or revoked. The Agricultural Act of 1949 itself represents a framework through which policy can be pursued. Support programs may vary as needs and economic conditions change. The substance of the Act is to provide the basic legislative authorization for price support. This objective is accomplished by means of amendments introduced within the established framework. This is politically a less onerous method of effecting change in agricultural policy.

This Act sets out the terms and conditions of acreage allotments and the provisions regarding eligibility for allotments. The fact that the government does not have to declare acreage allotments until January 1 of the calendar year to which they apply has been criticized by producers as seriously delaying their production decisions. This could have the effect of discouraging producers from participating in production adjustment and hence diminishing the effectiveness of these programs. Alternatively, the producer who wishes to participate in government programs may find that waiting for allocations to be proclaimed adversely affects his production efficiency. If the allotment system is to be continued, government decisions affecting acreage should be required to be made well in advance of the production season in order to allow the producer more flexibility. It is quite possible that the January 1 limit does not provide the producer with sufficient time to adjust his fertilizer, seed and other input requirements in line with the acreage allotted to him.

A second problem with acreage control for the purposes of supply management, as stated by Daniel Green⁸, is its slow and

⁸Green, D. "The Politics of Food", London, 1975 at p. 83.

imprecise nature. It is slow first of all because it takes time for supply to decrease once the decision has been made to restrict acreage planted and secondly because production and demand estimates are based on worldwide supply which is not easily or quickly determined. It is imprecise because crop yield is based not only on the number of acres planted. Factors including weather, soil and available technology, which to some extent are outside of the control of the producer and which are difficult for statisticians to estimate, will also affect production figures.

The provisions dealing with nonrecourse loans are valuable to the producer in that if he participates in the allotment program, he is eligible for credit from the government. His crop is used as collateral for the loan, and accordingly his indebtedness can never exceed the value of his production. There is a potential problem that this program could result in the government amassing excessive stockpiles which could depress market prices or possibly be dumped indiscriminately on the market. However, surplus stocks under government control will not become a threat unless market prices fall well below the already low loan levels. The government is currently maintaining minimal reserve stocks and is encouraging private storage and control of commodities. As long as this trend continues, excess production should not be a problem. With limited government intervention, the producer should be able to sell his production according to market demand. In addition, the fact that the Act legislates levels below which Commodity Credit Corporation stores cannot be sold is a means of protection against government stockpiles. The Corporation is also authorized to dispose of its goods outside

of the normal course of trade and commerce which means that these goods may never reach or affect the marketplace.

The principal thrust of this legislation is to encourage producers to participate in a program of controlled production. The program is voluntary and is an effort to induce supply management by support payments rather than to enforce controls, as is done by the penalty provisions of the quota systems. In many cases, it may be more profitable for the farmer to disregard acreage allotments and to utilize his complete production capacity. This approach decreases the efficiency of the program in its attempt to stabilize prices. However, in a time of potential commodity shortage when the government is pursuing full production, these regulations merely create a safety valve in the event that this policy has unanticipated and disastrous results.

2.3.3 Agricultural Trade Development And Assistance Act
of 1954⁹

2.3.3.1 STATED POLICY: To increase the consumption of United States agricultural commodities in foreign countries, to improve the foreign relations of the United States, and for other purposes.

2.3.3.2 ANCILLARY PURPOSES: To expand international trade; to develop and expand export markets for United States agricultural commodities, to use the abundant agricultural productivity of the United States to combat hunger and malnutrition and to encourage economic development in the developing countries, with particular emphasis on assistance to those countries that

⁹Pub.L. 480, 83rd Cong., 68 Stat. 454, Approved July 10, 1954.

are determined to improve their own agricultural production; and to promote in other ways the foreign policy of the United States (S.2).

2.3.3.3 METHODS AND INSTRUMENTS OF IMPLEMENTATION

Although this legislation was originally enacted in 1954, it underwent substantial amendment in 1966 pursuant to the terms of the Food For Peace Act.¹⁰ These amendments will be integrated into this discussion of the original Act. The statute is composed of several Titles or divisions, each dealing with a separate aspect of foreign food aid and distribution. The approach will be to consider the Act in the context of these Titles.

Title I authorizes the President to negotiate and execute agreements with foreign countries to provide for the sale of agricultural commodities for dollars on credit terms or for foreign currencies (S.101). This is generally referred to as concessional aid in that the extension of credit and the terms of repayment are made at preferential rates. In order to carry out these agreements, the Act authorizes the Commodity Credit Corporation (C.C.C.) to finance the sale and exportation of agricultural commodities, regardless of whether they come from private stocks or from stocks held by the C.C.C. (S.102). However, this provision does not extend to any exporter trading with North Vietnam.

In deciding the extent and terms of assistance to be rendered, the Act requires that several criteria must be weighed (S.103). The efforts of the country to help themselves to greater self-reliance in food production and problems of population growth are important factors. Measures which will assure a progressive transition from sales for foreign currencies to sales for dollars

¹⁰Pub.L. 89-808, 80 Stat. 1526. Approved November 11, 1966.

and precautions safeguarding the usual marketings of the United States to assure that sales under this Act will not unduly disrupt world prices of agricultural commodities or normal patterns of commercial trade must also be considered. Because of the nature of the program sales will be made only to friendly countries. These sales are to be carried out through the channels of private trade with emphasis on the development and expansion of foreign markets. This includes encouraging more adequate storage, handling and food distribution facilities as well as promoting economic growth in recipient countries.

Purchasing countries are required to give commitments that will prevent the resale or transshipment, or use for other than domestic purposes, of agricultural commodities purchased pursuant to the Title. Further, any agreements are to attempt to secure the most favourable rates of currency exchange possible for the United States. The program encourages higher production of food crops in those countries assisted rather than of nonfood crops which may be in world surplus. It also authorizes assistance to friendly countries desirous of independence from Communist domination or control while providing that concessional sales agreements should not be made available to any country controlling a world Communist movement. It is interesting to note that in order for countries to obtain food on a concessional sale basis, they must indentify such food as being provided "through the generosity of the people of the United States of America" when it is distributed or sold. They are also required to widely publicize through the public media the fact that the commodities are provided by the U.S. as food for peace.

The Act provides that whenever possible, at least 5% of the total purchase price is to be paid in dollars or convertible currencies upon delivery, and any balance owing by the country should be paid in convertible funds. However, if this is not possible, the President may enter into agreements providing for funds owing to the United States to be applied to any obligations owing to that country by U.S. agencies or to be made available to American tourists visiting the importing country. One important requirement of the Title is that maximum precautions be taken to assure that sales for dollars on credit terms do not displace any sales of agricultural commodities which would have otherwise been made for cash dollars. Further, the Act requires that any necessary steps should be taken to assure the United States a fair share of any increase in commercial purchases of agricultural commodities by the importing country and, consequently, to assure the availability in the United States of commercial supplies to meet demands developed through the program.

If debts incurred pursuant to this Title are satisfied in foreign currency, the Act provides for several objects to which these funds may be applied in the foreign country (S.104(b)). These include market development, educational exchange, scientific research, satisfaction of U.S. debt obligations, development of defense facilities, emergency assistance, multilateral agricultural and economic trade expansion, health and welfare programs, and pest and weed extermination.

The terms of repayment of loans made pursuant to this Act depend to a large extent on the economic conditions of the debtor country, subject to the provision that loans must be repaid within at least twenty years of the last commodity delivery.

Any loan agreements must contain terms assuring that proceeds from the sale of those agricultural goods in the recipient country will be applied to such economic development programs as are mutually agreed upon by the United States and the country involved (S.106).

In order to stimulate sales through private trade and to develop and expand foreign markets, the Secretary of Agriculture is authorized to enter into agreements with foreign and U.S. private trade for the financing of agricultural export sales. These agreements must contain provisions for the development and execution of projects which will result in the establishment of facilities designed to improve the storage or marketing of agricultural commodities, or which will otherwise stimulate and expand private economic enterprise (S.107). Any agreement entered into pursuant to this Title must describe the program undertaken in the recipient country to improve its production, storage and distribution of agricultural commodities. Should the program not be adequately developed, the agreement, and hence the availability of credit, may be terminated.

Title II deals with the extension of food aid to meet famine or other urgent or extraordinary relief requirements; to combat malnutrition; to promote economic and community development; and for needy persons and nonprofit school lunch and preschool feeding programs outside the United States (S.201). Commodities are distributed to U.S. agencies as well as to foreign governments in such manner and upon such terms and conditions as the President deems appropriate (S.202). In general, this means that commodities are donated rather than sold. Especially in the case of needy persons, assistance is directed toward community and other

self-help activities designed to alleviate the causes of the need for assistance. Here again, reasonable precautions must be taken by the government to ensure that commodities furnished pursuant to this title do not displace or interfere with sales which might otherwise be made.

The Title authorizes the Commodity Credit Corporation to pay all charges in connection with the packaging, preservation, transportation, processing, handling and ocean freight of the commodities in addition to the initial costs of acquiring the goods to be distributed (S.203). However, the Act also looks to other nations to participate in expanded aid programs of providing international food and agricultural assistance.

Title III authorizes the Secretary of Agriculture to barter or exchange agricultural commodities owned by the C.C.C. for certain enumerated goods. These include strategic goods not produced in the United States, materials required in connection with foreign economic and military aid programs, or materials required for offshore construction programs. There are no restrictions imposed on the non-Communist countries to which American agricultural surplus commodities may be sold except for the usual safeguards against market disruption.

Title IV is mainly concerned with the determination of the commodities and the quantities of those commodities which will be included in this program. The major problem is to guard against the depletion of stocks to such an extent as would jeopardize domestic supply and anticipated dollar exports. Provision is also made for additional programs of farmer-to-farmer assistance and technological education and aid in those countries undertaking

self-help measures in the areas of both agricultural production and population control.

This Title delegates the administration of the Act to an Advisory Committee which continually surveys the operation of the program and determines any changes necessary for increased efficiency. Included among the high ranking government officials composing the Committee are the Secretary of State and the Secretary of Agriculture. This Committee advises the President with respect to the program and he in turn is required to report annually to Congress on the activities carried out in the preceding year of operations.

2.3.3.4 CONSEQUENCES AND IMPACT OF THE ACT

This Act represents one of the initial efforts by the United States government in conducting a program of surplus production disposal. However, it has been subject to sharp criticism because of its proven vulnerability to economic change and production fluctuation. Its major objective has been to distribute food aid to foreign countries by means of either concessional sales or outright donation. In recent years as surplus stocks diminished in the United States, so also did the quantities of agricultural commodities devoted to the purposes of this Act. Restricted supplies have particularly curtailed the amount of food donated under Title II. This indicates that the policies enunciated in this Act have been pursued more for the selfish reasons of dealing with burdensome overproduction than for the humanitarian goals of sharing with "have-not" countries.

This Act contains strong political overtones with American agricultural abundance being used as a tool in the advancement of

foreign policy. Aid is extended to "friendly" countries which are contractually obliged to advertise that the food received pursuant to concessional sales or donation are available because of the "generosity" of the people in the United States. In this sense, it is used to buy loyalty and to influence countries forced to rely upon the United States as their benefactor. In addition, the agreements regulating the terms and conditions whereby food aid is extended impose stringent requirements on the recipient countries to undertake development programs sanctioned by the United States, under the threat that aid will be terminated if the proposed plans are not adequately executed.

Some of the major criticisms of giving away food have been that this may temporarily relieve hunger but it doesn't solve the underlying problems. By encouraging governments to pursue self-help programs, food aid may be able to satisfy more than short-term needs. However, it is open to debate as to how involved the donor country should become in the programs undertaken by the recipient. This legislation puts the United States in a paternalistic role, carefully scrutinizing the activities of its beneficiaries. Although it may be necessary to encourage a country to initiate measures enabling it to become more self-reliant, this colonialist approach could unduly restrict the activities of the recipient country to coincide with what the United States determines to be the best course of action or the best use for the sale proceeds from agricultural commodities.

One potential danger of food aid is that the availability of this cheap food in the importing country may discourage domestic food production. The result would be to diminish the effectiveness

of the overall program, at least to the extent of economic development in the recipient country. There is also the problem that the country may place an increased reliance on foreign food aid, which, if delayed or terminated because of non-compliance with the aid agreement or absence of available supplies, could have serious repercussions on the economic and social welfare of the country. An offshoot of this may be that food from North America could create a market for agricultural commodities which the recipient country is unable to produce. This could be advantageous for the supplier of these goods by opening new markets. However, it could also work to the detriment of the recipient country which must rely on even more imports than were needed prior to its receiving food aid. A third possibility is that the commodities which are in surplus in the United States may be unsuited to the diets of the recipients and hence the extension of this type of food aid would be valueless.

Besides creating an outlet for surplus agricultural production, this Act also provides a stimulus to private trade in that commodities for the program may also be drawn from non-publically held stocks. In addition, any agricultural commodities are required to move in the normal channels of trade and commerce. This could mean a tremendous commercial boost to warehousemen, processors, transporters and anyone else handling commodities in the food aid program. This aspect is further assisted by the provisions in the Act encouraging the expansion of markets and the transformation of aid recipients into cash sales customers.

The provisions dealing with the development of storage facilities in recipient countries once again underline the desire

of the United States to move away from stockpiling and to have reserves held in the countries which rely on imported agricultural commodities. This would have the effect of relieving some of the political pressure involved in keeping surplus production off the market in the United States and would also decrease the financial burden involved in holding large national reserves. For the importing country it would mean greater security of supply since a certain quantity of contingency goods could be held although it would also mean that funds would be tied up in stockpiled commodities.

This Act pursues objectives connected with both the agricultural and foreign policy goals of the U.S. government. In the area of agricultural policy, it attempts to deplete surplus stocks and stabilize domestic farm prices and incomes by attacking the problem of overproduction. In the area of foreign policy, it constitutes one of the largest food aid programs undertaken by any country regardless of the fact that food has been distributed mainly to support allies and friends, and to influence food-deficient countries. Although the program of food give away and concessional sales renders assistance to those countries in need, this has been accomplished at great expense to the American taxpayer. This was true in the early days of the program, in that the surplus stocks distributed were acquired through farm support programs, and continues to be true in times of short supply since an aid program of this magnitude cannot easily be decreased or terminated even though surplus stocks no longer exist. In the latter circumstances, the government must purchase needed commodities in the marketplace at high financial costs.

Thus the existence of the program in itself guarantees that a certain proportion of agricultural production will be absorbed regardless of whether there is a surplus or shortage of commodities. However, the program deals only with the end result of production by acting as a disposal mechanism. It does not attempt to deal with the primary problem of how to avoid the necessity of wholesale disposal at high internal costs. Moreover, the government has found itself locked in to this program, first of all, because producers rely on it as a large purchaser of agricultural commodities and secondly, because countries receiving aid have come to depend on its continued existence. Once the government has acted as an intermediary between domestic producers and foreign consumers, it cannot withdraw inconspicuously when production conditions no longer warrant such a disposal program.

The major objective of this Act was to increase agricultural consumption and consequently to be rid of existing surpluses. Although the problems to which the Act was originally addressed have been relieved, the program continues to exist, although modified to reduce the amount of food donated and tighten the requirements that sales be made for dollars rather than for foreign currencies. As a food aid mechanism, this program suffers from its vulnerability to available supplies and market requirements. Aid which is not extended with some degree of continuity and stability is likely to detrimentally affect the recipient country.

This illustrates one possible conflict which may result when agricultural and foreign policy objectives are combined. When the objectives of the agricultural policy are reached, in this case by bringing domestic surpluses under control, the most

economically feasible action is to withdraw or suspend the program until it is needed once again for supply management. However, this course of action is not politically possible when considered in the context of the foreign policy objectives of the Act. The result is that an unnecessary and costly agricultural program must be continued because of the adverse effects its discontinuance would have on foreign relations.

2.3.4 International Development and Food Assistance Act of 1975¹¹

2.3.4.1 STATED POLICY: To authorize assistance for disaster relief and rehabilitation, to provide for overseas distribution and production of agricultural commodities, to amend the Foreign Assistance Act of 1961,¹² and for other purposes.

2.3.4.2 ANCILLARY PURPOSES: To provide prompt assistance for the relief and rehabilitation of people and countries affected by natural and manmade disasters; to furnish assistance to any foreign country or international organization for international disaster relief and rehabilitation, including assistance relating to disaster preparedness, and to the prediction of, and contingency planning for, natural disasters abroad; and to the greatest extent possible, to reach those in most need of relief and rehabilitation (S.101).

2.3.4.3 METHODS AND INSTRUMENTS OF IMPLEMENTATION

This Act represents another example of policy directions being pursued by means of amendments to previous legislation. Its terms encompass a wide spectrum of policy in the areas of foreign assistance, disaster relief and agricultural

¹¹ Pub.Law 161, 94th Cong., 89 Stat. 869. Approved December 20, 1975.

¹² Pub.Law 87-195, 75 Stat.424. Approved September 4, 1961.

disposal in an attempt to update the programs in these areas. The Act is divided into three Titles, each one of which will be discussed separately.

Title I, concerned with international disaster assistance, amends the provisions of the Foreign Assistance Act of 1961. The purpose of these amendments is to authorize aid to foreign countries or international organizations in the event of natural or manmade disaster. Any relief pursuant to this section is granted at the discretion of the President, who is required to make quarterly reports to the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives as to the programming and obligation of the funds appropriated. Presidential power, however, is delegated to a Special Coordinator for International Disaster Assistance for the purpose of promoting maximum effectiveness and coordination in responding to foreign disaster.

In particular, this Title allocates funds to enable the formulation of a long-term comprehensive development program for the Sahel and other drought-stricken nations of Africa with a view to encouraging international coordination as well as participation by the African nations concerned. Appropriations are also made for the purpose of providing relief and rehabilitation of refugees and other needy people in Cyprus.

Title II, food aid to poor countries, sets out amendments to the Agricultural Trade Development and Assistance Act of 1954 which is discussed above. Additional policy objectives are promulgated to provide that priority in the extension of food aid be given to those countries most seriously affected by food

shortages and by their inability to meet immediate food requirements on a normal commercial basis. In pursuing this policy, other traditional and potential donor countries are also encouraged to assist developing countries in their longer term food needs by making available food, fertilizer or the means of financing these commodities. Greater emphasis is placed on relating assistance to the efforts by aid-receiving countries to increase their own agricultural production as well as to improve their transportation, storage and distribution facilities. In addition, a policy of expanding agricultural markets as one means of promoting a strong American farm economy is also set out in this section.

The amendments to the U.S. food aid program were to some extent made in response to the principles enunciated at the World Food Conference (W.F.C.) in Rome. This explains the incorporation into this Act of the W.F.C. resolution that donor countries continue to provide a total of at least ten million tons of food assistance to needy nations annually. Although the extension of food aid is left to the discretion of the President, the amendment urges that the United States maintain a significant contribution towards reaching this goal while encouraging other countries to do likewise (S.202).

The amendments with respect to the use of funds derived from the sale of the agricultural commodities made available under the food aid program put even greater emphasis on development goals. Aid agreements are negotiated with a view to applying sale proceeds to purposes which will directly improve the lives of the poorest sector in the country and enable that group to

participate in the development process (S.205). This includes programs of agricultural and rural development, nutrition, and population planning. Even in the case of sales for dollars on credit terms, priority in lending is given to those countries pursuing development programs designed to increase the access of the poor to an adequate nutritious and stable food supply while also assisting farm programs by making production equipment, credit and technological information available to the producer.

Provisions are also made for the limitation of the extension of food aid, even on the basis of concessional loans. The Act states that not more than 25% of the food aid commodities available may be delivered to countries having an annual per capita gross national product of more than \$300 unless the President certifies that aid is required for humanitarian reasons (S.207). In the case of Title II programs, under which food may be donated or sold for token amounts, sale agreements cannot generate foreign currency unless self-help measures have been undertaken, the specific uses for those foreign currencies are mutually agreed upon in writing, and those specific uses are sanctioned by the Act (S.209).

The Act increases the onus on the President in submitting his annual reports on this program to include a global assessment of food production and needs, to outline self-help steps being taken in recipient countries and also those measures undertaken by the United States to encourage the participation of other donor countries in food aid. A revised assessment must be

submitted by November 1 of each year dealing with the planned programming of food assistance to reflect the actual availability of agricultural commodities (S.211).

A further rather notable amendment introduced by the Act is the authorization given to the President to seek an international agreement subject to congressional approval, for a system of food reserves to meet food shortage emergencies and insure against unexpected shortfalls in food production. The costs of this proposed system would be shared among participant nations and safeguards would be instituted to protect both farmers and consumers against market price disruption.

Title III amends those terms of the Foreign Assistance Act of 1961 dealing with development assistance programs. The policy statement of this division recognizes that assistance should be used not simply for the purpose of transferring financial resources but should also focus on helping countries solve development programs with a strategy that aims to increase the participation and well-being of the poor. Hence, in pursuing the programs pursuant to this Title, greatest emphasis is placed upon activities involving the poor in development by expanding their access to the economy through services and institutions at the local level, increasing labour-intensive production, spreading productive investment and services out from major cities to rural areas, and otherwise providing opportunities enabling the pursuit of improved conditions through their own efforts (S.301).

In order to assure that the assistance offered will be used most effectively in carrying out the policy directions enunciated, the granting of aid is subject to a preliminary assessment as to the

commitment and progress of potential recipient countries in meeting development objectives. Included among the factors considered are efforts made to increase agricultural productivity through small-farm labour-intensive agriculture, reduce infant mortality, control population growth, promote equality of income distribution, and reduce rates of unemployment and under-employment.

In addition to making the actual agricultural commodities available, this Title updates the terms of reference for undertaking agricultural research. It provides that research should take into account the special needs of small farmers in determining research priorities. In addition, it encourages studies on the interrelationships among technology, institutions, and economic, social and cultural factors affecting small-farm agriculture.

Another area of concern in development assistance is the need for curbs on population growth. To this end, appropriations are authorized for the purposes of encouraging population planning and health programs. Funds are also authorized to be used for the purpose of providing education and technological training in recipient countries as well as for technical assistance, energy, research and reconstruction in selected areas.

One new area of policy pursued in this Act is a program entitled "Famine Prevention and Freedom from Hunger". The policy underlying this program is directed towards strengthening the capacities of the United States land-grant and other eligible universities in agricultural institutional development and research. The objective of this program is to aid in increasing world food production, and solving food and nutrition problems in developing countries through the application of scientific

agricultural research.

2.3.4.4 CONSEQUENCES AND IMPACT OF THE ACT

This Act is a reassertion of the policies enunciated in the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 aimed at relieving international hunger and need while also recognizing the constraints which bear on the extension of such aid. These Acts were originally conceived with a dual purpose; first, to create an outlet for the burdensome surplus production which was being held in the United States and, secondly, to assist those countries which lack sufficient domestic supplies and resources to feed their population. As economic conditions and production trends evolved, these foreign aid programs were no longer necessary to deal with problems of oversupply in the United States since the quantities produced could be readily absorbed in the marketplace. For this reason, the efforts devoted to foreign food aid lost their domestic urgency although many countries still depended upon the United States for relief. The amendments in the International Development and Food Assistance Act of 1975 were enacted in an attempt to curtail the growing tendency to ignore the food aid program and to establish some criteria for assuring the availability of resources where they were needed most.

The main objective of these amendments is to limit the resources expended on these programs by concentrating efforts on the poorest sector of recipient countries. The theory underlying the legislation is to involve the poor in development programs which will eventually lead to self-sufficiency in the recipient countries. Some American producers have protested that efforts

to encourage agricultural production in these countries will have the effect of reducing the export market for commodities produced in the United States. The conflict is whether it is more acceptable to provide food and ignore development aid in order to ensure American farmers a constant market, either in the form of the U.S. government or the importing country, or whether food aid should be conditional on increased efforts towards internal agricultural production at the possible expense of the U.S. producer. Should the farmer suffer as a result of the latter policy, it is likely that his production would be supported by the government. Hence in either case the costs are to the government, and eventually to the taxpayer.

Food aid, pursuant to this Act, is allocated on the basis of "the actual availability of agricultural commodities" as estimated by federal forecasting and enunciated in the annual Presidential reports. This may in fact be the only means whereby the United States can enter into realistic and firm commitments. However, the fact that the quantities devoted to the program are always inexact and their availability uncertain has made it difficult, if not impossible, for agencies to arrange for food aid to be delivered where and when it is needed. In the past, criticism has been leveled against the program in that by the time aid was allocated, it was much too late to be effective. This has resulted, in part, from the November 1 deadline for reassessment of available supplies. In order to be viable, the program should allocate to food aid a specified dollar amount, subject to annual indexing. This amount could then be extended either in an equivalent quantity of agricultural commodities when available, or in financial assistance.

This Act looks to greater international involvement in meeting the food needs of countries not able to feed themselves. The United States urges other developed nations to contribute a share of the world's requirements, either financially or in agricultural commodities, and adopts the proposals of the World Food Conference. However, this may be seen as merely trying to set an example for other countries to follow. The Americans have undertaken major food aid programs for more than two decades and are now finding the program to be an economic drain. It is to their advantage to enlist the aid of other countries to ease the demands on American generosity. Those wealthy countries which lack surplus agricultural production may become purchasers of products from the United States for delivery to countries requiring assistance, or perhaps even for the purpose of establishing international reserves. In this way, international relief could have the effect of expanding cash markets for American goods while decreasing the amount of concessional food aid sought from the United States.

Another aspect of the expanded development programs is the enhancement of the economic conditions within the recipient country and the creation of a higher standard of living for the poorer sectors. The eventual result is an increased buying power and stronger demand for commodities, both domestic and imported. If the programs are pursued efficiently this may also have the effect of broadening markets for U.S. production.

The United States has very strong bargaining power in making available what are now limited resources and carefully scrutinizes the programs undertaken by countries in order to be eligible for aid. The result is that the United States could be directing programs to such an extent as to increase dependence on those programs rather than to encourage independence and self-reliance. In this vein, the United States could find itself obligated to continue and even accelerate aid programs rather than limit them.

The amendments in this Act pursue very ambitious objectives which may create a basic weakness in the program. High ideals are often never reached or are accomplished with disappointing results. In countries where the major preoccupation is to ward off starvation, development programs are viewed as having only secondary importance. The optimistic demands placed on countries in order that they may receive aid may create insurmountable barriers with the result that the goals desired may never be reached. One particular danger in legislating conditions which must be fulfilled before the operative provisions of the Act may take effect is that this inherent inflexibility could severely hamper the efficiency of the statute. The Act is premised on a set of ideal assumptions which, if logically pursued, will give the desired result. In this case, if the country is pursuing or contracts to pursue specified development goals, then it may be eligible for assistance. Unfortunately, the Act does not really address itself to those situations where the specified goals, or perhaps the undertaking of any development program, are currently beyond the reach of the country in need.

This Act attempts to reach a compromise in the pursuit of foreign food aid policy. On one side the government has created a precedent by granting large quantities of food and development aid while on the other side it is faced with increased costs of the program and decreased resources with which to operate. The legislation concentrates on improving the ability of countries in need to provide for themselves while providing interim sustenance. These amendments underline the fact that food aid programs are closely related to agricultural supply management. In this case, the program which was once controlled by the government came back to haunt it although these measures were no longer needed for domestic production control nor reflected sound economic policy. Because of the strong foreign policy intonations as well as the commitment to the goals expressed at the World Food Conference the program could now be said to control the government. Food aid, once undertaken, is not a policy which will quietly resolve itself if neglected.

2.3.5 Trade Expansion Act of 1962, as amended¹³

2.3.5.1 STATED POLICY: To authorize the negotiation of trade agreements affording mutual trade benefits.

2.3.5.2 ANCILLARY PURPOSES: To stimulate the economic growth of the United States and maintain and enlarge foreign markets for the products of United States agriculture, industry, mining and commerce (S.102(1)); to strengthen economic relations with foreign countries through the development of open and non-discriminatory trading in the free world (S.102(2)); and to prevent Communist economic penetration (S.102(3)).

¹³ Pub.L. 87-794, 76 Stat. 872. Approved October 11, 1962.

2.3.5.3 METHODS AND INSTRUMENTS OF IMPLEMENTATION

The primary purpose of this Act is to modify existing duties and import restrictions as necessary to ensure protection to domestic producers and processors as well as to promote international trade. As one method of pursuing this policy, the President was empowered to enter into trade agreements during the period June 30, 1962 and July 1, 1967 if he was of the opinion that any U.S. trade restrictions were unduly burdening and hampering foreign trade. Some of these agreements probably continue to operate. In addition, he was authorized to modify, continue, or even augment duties or restrictions as deemed necessary to carry out any trade agreement (S.201(a)).

Presidential discretion in pursuing these trade agreements could not be exercised, however, if any decrease or elimination of duty or import restriction would threaten or impair national security (S.232(a)). Should any such danger be envisaged, the head of a department or agency could request the Secretary of the Treasury to make an appropriate investigation for the purpose of determining the effects on the national security of imports of any given commodity. If it were found that any article was being imported into the United States in such quantities or under such circumstances as to impair national security, the President would be required by the legislation to take any actions necessary to modify imports.

In determining the threat posed by any imports several factors would be taken into consideration. These include the domestic production needed for projected national defense requirements; the capacity of domestic producers to meet such requirements;

existing and anticipated availabilities of human resources, products, raw materials and other supplies and services essential to the national defense; the growth requirements of domestic industries; and the effect of importation on domestic security needs. In addition, imports would be scrutinized in terms of the impact of foreign competition on the economic welfare of individual domestic industries, and any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects resulting from the displacement of any domestic products by excessive imports.

Tariff adjustment authorized by this Act is not only applicable in the case of national security criteria. Restrictions may also be imposed or increased at any time in the case of an imported commodity which threatens to economically injure domestic industry (S.351). However, any tariff proclaimed pursuant to these provisions may be terminated or reduced when such action is deemed to be in the national interest or, alternatively, on the expiration of four years after proclamation.

In lieu of imposing duties and import restrictions on undesirable imports, international agreements may be negotiated with foreign countries limiting the export from such countries and the import into the United States of any article threatening an industry. To carry out the terms of such an agreement, regulations may be issued governing the entry into or withdrawal from a warehouse of goods covered by such agreement or of any similar commodity produced by a country not party to the agreement (S.352).

2.3.5.4 CONSEQUENCES AND IMPACTS OF THE ACT

This Act purports to pursue a policy of strengthening international trade through trade agreements. However, its primary concern is the maintenance of stable domestic economic conditions through protective trade restrictions. Any agreements negotiated in accordance with this legislation are subject to the paramount interests of national security and the economic welfare of individual industries. The fact that the President is authorized to modify duties or import restrictions in the course of pursuing agreements allows a considerable degree of flexibility in manipulating or influencing international trade.

"National security" may be interpreted broadly especially in view of the legislative proclamation integrating internal economic stability and strong foreign relations. This means that if an industry or product suffered a setback due to either overproduction or a declining market, discretion could be exercised pursuant to this section to restrict any imports which may harm or aggravate the domestic situation. Another aspect of the "national security" criteria is that the threat of import regulation could be used as leverage in foreign or trade policy negotiations with an exporting country.

This Act aims at international trade adjustment through the cooperative efforts of importing and exporting countries. The cornerstone of effective trade relations is equality in bargaining with concessions being given by both importer and exporter to reach a fair balance. The United States cannot expect trading partners to keep their borders open to the vast quantities of goods and commodities which the Americans have available for

export if protective barriers are built to keep imports from threatening the U.S. domestic market. As the competition between developed countries for export markets has grown, the viability of the provisions of this legislation has been reduced. This is because any imposition of severe import restrictions in the United States could weaken its position as a reliable trading country and encourage trading countries to find new markets. The provision that tariff adjustments not specifically proclaimed in the interest of national security have a maximum existence of four years recognizes the fact that import restrictions may be disadvantageous in the perspective of long-term trade policy.

Trade agreements for the purpose of limiting the quantity of goods exported to the United States may be a more effective means of domestic protection than unilateral import restriction. In this situation, exporting countries would have an opportunity to negotiate the terms of trade restrictions and would be able to accommodate their trade and production planning to the terms of the agreement. However, because the Act provides that the terms of agreements limiting imports into the United States may also extend to similar products of countries not party to the contract, this form of trade agreement may have broad implications for international trade.

The declaration of policy in the preface of this Act states that its aim is to "strengthen economic relations with foreign countries through the development of open and non-discriminatory trading in the free world" and also "to prevent Communist economic penetration". These statements underline the political aspects of this Act in pursuing foreign economic policy. The implication

is that favourable trade agreements will be negotiated by the United States with certain countries in an attempt to compete with and possibly draw trade away from Communist countries. Negotiating trade agreements with a view to obtaining favourable political ramifications may be accomplished at the expense of economic policy. The result is a conflict between developing stable and continuous markets for United States production, and exploiting the international market for United States commodities as a means of strengthening political power.

This Act represents another method of price support, in this case by means of controlling the amount of any commodity available in the domestic market. This is done by restricting imports which would overburden the market, and by creating expanded markets through trade agreements. Although there is no provision for any subsidies or support payments, a protected market assures domestic producers of a steady demand for their goods at reasonable prices. This kind of program is financed by the consumer, whose choice and supply of goods is restricted, rather than by the taxpayer.

2.4 Domestic Food Assistance Programs

2.4.1 National School Lunch Act of 1946¹⁴

2.4.1.1 STATED POLICY: To provide assistance to States in the establishment, maintenance, operation and expansion of school lunch programs and for other purposes.

2.4.1.2 ANCILLARY PURPOSES: As a measure of national security to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious

¹⁴Pub.L. 79-396, 60 Stat.230. Approved June 4, 1946.

agricultural commodities and other food, by assisting States through grants-in-aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation and expansion of non-profit school lunch programs (S.2).

2.4.1.3 METHODS AND INSTRUMENTS OF IMPLEMENTATION

This Act provides for a cooperative effort on behalf of Federal and State authorities to make available free or subsidized school lunches to American children in need. It is a form of domestic welfare administered by the Department of Agriculture for the primary purpose of boosting agricultural consumption and distributing surplus production.

Federal funds appropriated pursuant to this Act are apportioned among participating States for the purpose of purchasing both food and non-food commodities to be used in this program (S.5). Non-food items may include equipment used by schools in storing, preparing or serving food for school children (S.12(d)(4)). These commodities and funds are in turn distributed among schools and eligible service institutions within the State in accordance with needs as determined by local school boards and authorities (S.6(a)). The value of commodities to be delivered is estimated by February 15 of each fiscal year. If this value is less than 90% of the value of deliveries initially programmed, the difference is satisfied in funds granted by the Department of Agriculture. These grants are then disbursed to the participating schools for the purpose of obtaining any additional food needed for the program (S.6(b)). The Act provides that starting with the base year 1975, the national average value of donated food or cash payment in lieu

of food shall not be less than ten cents per lunch, adjusted on an annual basis to reflect changes in the Consumer Price Index (S.6(e)).

Federal payments to any State pursuant to this program are made upon the condition that each federal dollar is matched by three State dollars. This figure may be decreased where per capita State income is less than per capita national income (S.7). Lunches provided must meet minimum nutritional requirements prescribed by the Secretary determined on the basis of nutritional research (S.9(a)).

Whether or not a student may be eligible for a free or reduced price lunch is determined according to guidelines prescribed by the Secretary. These guidelines, which must be set by May 15 of each fiscal year, are based on levels of income by family size. In order for a student to qualify, an adult member of the household is required to execute a statement with respect to the annual household income.

School lunch programs are required to operate on a non-profit basis and whenever possible, schools must utilize commodities designated from time to time by the Secretary as being in abundance (S.9(c)). In addition, commodities acquired by the government pursuant to its support programs may be donated to this program. In that case, the government may prescribe terms and conditions respecting the use of donated commodities in order to maximize the nutritional and financial contributions of these goods. Special assistance funds are also made available annually for use by the States in carrying out this program.

Another aspect of this Act is the appropriation of funds for the purpose of formulating and executing nonprofit food programs for children in service institutions, including private, nonprofit institutions or public institutions such as child day-care centres, settlement houses or recreational centres providing day-care for children of low-income working mothers or handicapped children. Once again, commodities designated by the Secretary as being in abundance or foods donated by the Secretary are required to be used as much as possible in these programs.

This Act is subject to continuous scrutiny by the National Advisory Council on Child Nutrition, composed of people from various fields including education, nutrition, social welfare, food management, school administration and school lunch program administration (S.15). In addition, four members of this Council are required to be officers or employees of the Department of Agriculture having special knowledge, training or experience in this area. The function of the committee is to study this program with a view to recommending administrative or legislative changes for its improvement.

2.4.1.4 CONSEQUENCES AND IMPACT OF THE ACT

The purpose of this Act is to provide a means whereby agricultural production can be disposed of through a social welfare program. The program not only absorbs a portion of those commodities held by the government pursuant to its supply management efforts, but also expands the market for and promotes the overall consumption of agricultural products with special emphasis on those goods in danger of being in surplus supply. By making available financial assistance for purchasing the equipment

and facilities which would enable schools to pursue the lunch program it creates new or increased demands for agricultural goods.

This program has been criticized because it operates in the form of a social aid plan which could be supervised more efficiently by a federal department dealing specifically with welfare services. The latter have the trained personnel to deal with such an assistance program which, it is argued, the Department of Agriculture lacks. The result is a potential overlap of facilities and employees which, in turn, increases the costs of the program. However, as a means of agricultural disposition, it is necessary that the Department of Agriculture maintain its involvement. It is one method whereby the government can focus consumption on certain goods in surplus supply and accordingly increase the market for those goods. This aspect of the program would probably not take priority if the Act was administered by a welfare department agency.

School lunches must meet certain nutritional requirements as prescribed by the Secretary. This is another means of directing consumption in that this administrative discretion may be exercised in favour of those commodities in abundance. There is also a danger of excessive government involvement as a result of the power to direct the use of any goods donated from federal stockpiles. Although this control may be conducive to optimum marketing management, it may hamper the efficient operation of the program in its practical application.

The means test, although necessary in order to ensure that school lunches reach the intended beneficiaries, may also

serve to defeat the purposes of the program. Households are required to make a statement of income in order to qualify for the benefits of this program. This approach is degrading for the applicant in that he is forced to ask for government charity. In many low-income families apathy or complete absence of information with respect to the program may reduce the number of applicants. Alternatively, it may open the program to abuse in the case where household income is deliberately misstated for the purpose of qualifying for assistance.

A more effective way of operating the school lunch program may be to determine the average household income for the area serviced by a school and offer subsidized or free lunches to all students in that school if the average income is below an established level. Lunches may be served to some students who would not qualify under the means test but, on the whole, the program would probably reach a larger number of children in need as well as remove the social stigma of being "selected" to receive subsidized food. In areas where average household income was above the qualifying level, the means test could be retained for application in individual cases.

One potential drawback of this program is that it could encourage farmers to consistently overproduce. The existence of this and other domestic and foreign programs of surplus disposal provide a constant market. As long as production abundance continues, these programs will continue to perform a useful function as a means of supply control. Hence, it is to the advantage of the producer to plan his production with a view to servicing these outlets in addition to satisfying normal market demands. In this way,

disposal mechanisms may operate to the detriment of production adjustment programs.

2.4.2 Child Nutrition Act of 1966¹⁵

2.4.2.1 STATED POLICY: To strengthen and expand food service programs for children.

2.4.2.2 ANCILLARY PURPOSES: To extend and strengthen the national school lunch program, under the authority of the Secretary of Agriculture, as a measure to safeguard the health and well-being of the Nation's children, and to encourage the domestic consumption of agricultural and other foods by assisting States through grants-in-aid and other means to meet more effectively the nutritional needs of American children.

2.4.2.3 METHODS AND INSTRUMENTS OF IMPLEMENTATION

This Act expands upon the programs initiated by the National School Lunch Act of 1946 to provide domestic food aid for additional purposes. However, the basic objective of seeking outlets for agricultural overproduction continues to influence the terms of the legislation.

The Act authorizes the institution of a special milk program to encourage the consumption of fluid milk by children in non-profit public and high schools as well as in non-profit nursery schools, child-care centres, settlement houses, summer camps, and similar institutions devoted to the care and training of children (S.3). Children eligible for free school lunches are also eligible for free milk. Rules and regulations necessary to administer this dairy program are made at the discretion of the Secretary of Agriculture.

¹⁵ Pub.L. 89-642, 80 Stat. 885. Approved October 11, 1966.

As a supplement to the school lunch program, this Act appropriates funds to assist States through grants-in-aid and other means to initiate, maintain or expand school breakfast programs. These breakfasts are offered to eligible students either free or at a reduced price. Participating schools are selected by the State educational agency with priority given to those schools in economically poor areas or in areas where children must travel long distances to school daily. Financial assistance may be authorized to cover up to one hundred percent of the operating costs of the program, particularly in circumstances of severe need. Breakfasts provided are required to consist of a combination of foods and must meet minimum nutritional requirements as prescribed by the Secretary.

In order to promote participation in breakfast or lunch programs, funds are appropriated for the purpose of supplying schools with equipment for the storage, preparation, transportation and serving of food to enable schools to establish, maintain and expand school food service programs. This assistance is especially aimed at providing facilities for those schools without a food service (S.5).

As in the school lunch provisions, each school participating in this program is required to include in its meal planning those agricultural commodities designated by the Secretary as being in abundance. In addition, government stockpiled foods may be donated for use pursuant to this Act in accordance with the needs as determined by the local school authorities (S.8). Both the food and milk service programs must be carried out on a non-profit basis. These benefits may be extended to include

any preschool program operated as part of the school system.

The Act provides for the conduct and administration of Federal food service programs for school children to be centralized in the Department of Agriculture. Any other Federal agencies administering programs under which funds are to be provided to schools for such assistance are to transfer those funds to the Department of Agriculture for distribution.

One additional area addressed by this Act is that of supplemental food programs for certain groups considered to be nutritional risks because of inadequate nutrition and income (S.17). These include pregnant or lactating women, and infants under four years of age who are in low-income populations. Programs pursuant to this section are currently authorized to continue until 1978.

2.4.2.4 CONSEQUENCES AND IMPACT OF THE ACT

The Child Nutrition Act of 1966 represents another link in the chain of legislation aimed at the disposition of agricultural production. It is an elaboration on earlier policy for the purpose of expanding the potential outlets for American surplus. It is couched in terms of welfare policy, emphasizing particularly the value which the "Nation" will derive as a result of ensuring the young an adequate and nutritious diet. This beneficial aspect of the policy is undeniable. However, the Act is primarily a means of absorbing surplus production into the domestic market and as a result probably benefits the producers at least as much as it does the recipient children. As a mechanism of agricultural support, the Act creates a market requiring a constant supply of commodities. It is more beneficial for surplus to be devoted to the objectives of this program rather

than to lie dormant in federal stockpiles. However, as in the case of school lunches, these programs are of little value in promoting production adjustment, and, conversely, may even encourage the accumulation of surpluses.

The special milk program continues a long tradition of milk support measures in the United States. It has the effect of diverting some milk production from the commercial market with the result that milk prices are maintained at a higher level. This program is beneficial to both dairy farmers and recipient children but is costly to the taxpayer and to the consumer. The breakfast program is also a mechanism for supply management. As an extension of the school lunch plan, it increases the quantities of production absorbed into a domestic welfare scheme. Consumption of designated commodities may be directed as the Secretary warrants necessary, with the result that government involvement in the agricultural process is increased. As in the case of other programs, the role assumed by the government makes it more and more difficult for it to withdraw from the area of agricultural regulation regardless of whether it purports to direct future policy to a free market orientation. These programs place increased reliance on the government to act as a moderator and stabilizer in the marketing of goods. Any attempt to decrease resources devoted to these programs would be met with protests by both recipients and producers. This constitutes a barrier to ever achieving a state where agriculture would operate in an open market free of government regulation.

One interesting provision in this Act is the centralization of all school food services under the administration of the

Department of Agriculture. The danger of potentially overlapping personnel and facilities in conducting these programs was noted in the discussion of the school lunch program. This reorganization diminishes this problem to some extent but it is open to question as to whether the appropriate agency has been chosen to administer these programs. Because of the dual purpose of this legislation, there will always exist a potential conflict as to which interests the administrators should be serving; that is, the recipients or the producers. Since the Act is formulated in the context of a welfare plan, it seems that a welfare agency is more suited to its administration. In addition, the Department of Agriculture has been accused of usurping the functions of other agencies in order to pursue its own objectives. This realignment of control serves to emphasize this fact.

2.4.3 Food Stamp Act of 1964¹⁶

2.4.3.1 STATED POLICY: To strengthen the agricultural economy; to help to achieve a fuller and more effective use of food abundances; to provide for improved levels of nutrition among low-income households through a cooperative Federal-State program of food assistance to be operated through normal channels of trade; and for other purposes.

2.4.3.2 ANCILLARY PURPOSES: In order to promote the general welfare, to utilize the nation's abundance of food cooperatively by the States, the Federal Government, local governmental units, and other agencies for the purpose of safeguarding the health and well-being of the population and raising the levels of nutrition among low income households; to increase the food

¹⁶Pub.L. 88-525, 78 Stat.703. Approved August 31, 1964.

purchasing power of low-income households in attempting to combat hunger and malnutrition; to promote the distribution in a beneficial manner of agricultural abundances and strengthen the orderly marketing of food; and to authorize a food stamp program which will permit low-income households to purchase a nutritionally adequate diet through normal channels of trade (S.2).

2.4.3.3 METHODS AND INSTRUMENTS OF IMPLEMENTATION

The Act sets up a program of subsidized food distribution to low income households by means of food stamps or coupons. This is accomplished by issuing coupon allotments having a greater monetary value than the amount which the eligible household is required to pay. These coupons may be used only for the purchase of food, and in some cases for plants and seeds, from retail stores approved by the government. The retailer may have the coupons redeemed at face value through Treasury of the United States (S.4(a)).

In areas where food stamp programs are in effect, distribution of federally donated foods is prohibited unless it takes place during a temporary emergency when the commercial food chain is interrupted or during a transitional period prior to the operation of a food stamp program. Under no circumstances is a household entitled to the benefits of food stamps and federally donated food at the same time.

Eligibility for food stamps is restricted to those households whose income and other assets are determined to be substantial limiting factors in permitting the purchase of an adequate diet (S.5(a)). Uniform national standards of eligibility are established by the Secretary prescribing the levels of household income and

financial resources to be used as criteria. Food coupons may also be issued for temporary periods to victims of a disaster if they meet the established criteria.

Coupons are issued only to households duly certified by State agencies as qualifying for assistance (S.6(a)). The face value of coupons issued to each household is that amount which the Secretary determines is the cost of a nutritional diet, adjusted to reflect changes in food prices (S.7(a)). The recipients are charged for the coupons issued to them in such an amount as represents a reasonable investment by the household but the cost may not exceed 30% of the total household income (S.7(b)). If household income is less than \$30 per week, coupons may be issued without charge.

In order to be approved to handle coupons, retail stores must submit applications to the government (S.8). Applications are considered on the basis of the nature and extent of the retail or wholesale food business conducted, the volume of coupon business expected to be conducted and the business integrity and reputation of the applicant. If a certificate of approval is granted, it is not transferable.

The Act stipulates that in administering this legislation, all practicable efforts are to be made to insure that participants use their increased food purchasing power to obtain those staple foods most needed in their diets. In particular, efforts are to be focused on encouraging the continued use of foods in abundance or surplus so as not to reduce the total consumption of surplus commodities made available through direct distribution programs (S.10(a)).

The State agency of each State wishing to participate in this program must submit a plan of operation specifying the manner in which the program is to be carried on. In addition, it must state the specific standards to be used in determining eligibility, give an undertaking to certify households according to the method prescribed by the Secretary and set out safeguards restricting the use or disclosure of information from applicant households. Undertakings dealing with the submission of reports as requested, the distribution of information with respect to the food stamp program, the issuance of coupons at least twice a month and the granting of a fair hearing to aggrieved households are also required by the applicant agency. If the State program is approved, the Federal Government agrees to match State contributions in financing the food stamp plan.

2.4.3.4 CONSEQUENCES AND IMPACT OF THE ACT

This act creates a further domestic welfare scheme for the purpose of stimulating the market for agricultural commodities. It provides considerably greater freedom to the low-income consumer than in the previous two Acts discussed in that the consumer is provided with subsidized food coupons with which he or she may purchase any food commodity in a participating retail store. This differs from the other food service programs where consumption is directed to commodities in abundance or surplus. One element of the food stamp program is to encourage the purchase of these surplus goods but there is no provision compelling the recipient to do so as a condition of eligibility for assistance.

The primary function of food stamps in the context of agricultural policy is to stimulate the overall demand for goods in the commercial market. Stamps are exchanged for food in the normal channels of trade rather than being negotiable only in special government outlets offering commodities which have been stockpiled pursuant to support programs. The Department of Agriculture is, in fact, authorized to print a form of currency whose use is restricted to purchasing food with the result that Federal and State funds are used to artificially boost consumption and, accordingly, increase the market to be serviced by the producer. This creates an income supplement to the eligible consumer by increasing the purchasing power of his or her food dollars and in addition provides an indirect stimulus to farm income.

The administration of this program is onerous in that it attempts to assist low-income people across the United States through diverse State agencies, each of which is set up according to a plan peculiar to each individual State. The result is a potential inequality in the application of the Act or extension of its benefits in spite of the fact that agencies operate pursuant to certain Federal guidelines. One problem which has been encountered is reaching and encouraging the participation of all those who may qualify while at the same time scrutinizing the program for abuses. Although the Act requires the States to conduct information programs, these may vary in their efficiency. A second problem is in the expedient handling of those applications which are received. Applications are required to be processed within thirty days of receipt but the backlog has

meant that the time involved is much longer. As a consequence of this, individual cases are not considered as carefully as they should be with the result that it is common for families to have to pay 30% of their income for their coupons, being the maximum allowed by the Act. For some applicants this figure is prohibitive and may discourage participation in the program. The administrative structure with which the applicant must deal may also reduce the incentive for the low-income household to even seek food stamp assistance.

It has been suggested that the food stamp program should be integrated into the social security and welfare payment programs by distributing part of those payments in the form of food coupons. In this way, the stamps would reach those in need because of the way in which they were allocated and the amount of entitlement would be linked to welfare data. The basic failure of this suggestion, however, is the fact that it removes a certain amount of freedom of choice by dictating to the recipient how he will allocate his resources. This paternalistic approach diminishes human dignity and emphasizes the welfare recipient's reliance on the government. The program would probably function more efficiently under the supervision of the Department of Health, Education, and Welfare but it should be operated as a separate plan in addition to the existing social welfare measures.

The following statement, in discussing the food stamp program, was made by Senator McGovern during the Hearings before the United States Senate Committee on Agriculture and Forestry:¹⁷

¹⁷ Part 2 at p.1076, United States Government Printing Office, 1975.

"...when we attempt to pass farm programs here in the Congress to help the farmers of this country, it does sometimes make them more attractive to some of our urban friends if there are some 'welfare' programs -- if there is a school lunch program and a program for women and infants and children."

This illustrates that the major interests served by these social welfare programs are the agricultural producers who require a market to which they may direct their commodities. Of secondary importance is the desire to improve the inadequate diets of the poor. When all of the trappings of welfare and shared abundance are removed, this program may be described, perhaps indelicately, as merely developing and exploiting another market for agricultural production. This fact makes the program vulnerable to adjustment or reduction as economic or agricultural conditions change.

2.5 Agricultural Marketing and Production Security

2.5.1 Agricultural Marketing Agreement Act of 1937¹⁸

2.5.1.1 STATED POLICY: To reenact and amend provisions of the Agricultural Adjustment Act, as amended, relating to marketing agreements and orders.

2.5.1.2 ANCILLARY PURPOSES: To establish and maintain orderly marketing conditions for agricultural commodities in interstate commerce; to protect the interest of the consumer by establishing a level of prices deemed to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets but not such as would maintain prices to farmers above an established level; to establish and maintain production, marketing and development research and projects to effectuate the orderly marketing of agricultural commodities

¹⁸50 Stat. 246. Approved June 3, 1937.

in the public interest; to establish and maintain orderly marketing conditions in the interests of producers and consumers as will provide an orderly flow of supply to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices; and to avoid the disruption of orderly marketing (S.2).

2.5.1.3 METHODS AND INSTRUMENTS OF IMPLEMENTATION

This Act creates the legislative authority for market adjustment by means of marketing agreements and orders. Marketing agreements are contracts into which the government may enter with processors, producers and handlers of agricultural commodities (S.8b). These are voluntary agreements which may only be executed after due notice and the opportunity for a hearing has been given. Conversely, if a marketing order is proclaimed, compliance by processors, producers or handlers is mandatory under threat of penalty or forfeiture of any excess production (S.8c(1)). Orders may be issued from time to time with respect to any commodity as is determined necessary in view of evidence submitted at a hearing on the proposed order.

The terms and conditions governing milk and dairy orders are specifically detailed in the Act. These provisions deal extensively with all aspects of milk classification, production, processing and marketing (S.8c(5)). The terms and conditions for all other commodities designated in the legislation are lumped together for general application. The Act provides that orders must contain one or more of the conditions set out and may contain no others. These terms include limiting the total quantities of any commodity which may be marketed or transported

to market in the course of either domestic or foreign commerce; allotting the amount of any commodity which a handler may purchase, market or transport to market; determining the existence and extent of any surplus production and providing for the control and disposition of such surplus; establishing reserve pools and providing for equitable distribution; requiring commodity inspection; providing methods for grading and standardizing containers for packaging and transport; and establishing production, marketing and development research projects (S.8c(6)). In addition, all orders must contain terms prohibiting unfair competition and trade practices, authorizing sale only at prices filed by handlers, and establishing agencies to administer orders, make rules and regulations, receive and investigate complaints, and recommend any amendments to the order (S.8c(7)).

Orders may be proclaimed in conjunction with a marketing agreement. In these circumstances, orders are not effective until the handlers of at least 50% of the volume of commodities covered by the order have signed a marketing agreement. However, in certain circumstances, orders may take effect without such approval if the Secretary, with Presidential support, determines that refusal to sign an agreement would prevent the effectuation of legislative policy.

Orders may be terminated or suspended if the Secretary finds that the order obstructs or does not tend to effectuate the declared policy of the Act. In addition, marketing agreements may be terminated at the end of a specified marketing period if termination is favoured by a majority of producers engaged in production for marketing purposes, if that majority produced

more than 50% of the volume of marketed commodities. Should the Secretary wish to ascertain whether the issuance of an order is approved or favoured by producers or processors, he may conduct a referendum.

Elaborate record-keeping and reporting provisions are set out in the Act, applicable to all parties to marketing agreements and to all handlers subject to orders. The purpose of these sections is to ensure that books and records are kept which adequately reflect whether the terms of orders and agreements have been carried out. It also enables the detection of any abuse of the privilege conferred by the Act providing for exemption from anti-trust laws.

Whenever a marketing order is in effect containing any terms or conditions regulating the grade, size, quality or maturity of specified commodities, these conditions are also applicable to any commodities imported into the United States. If the restrictions under a marketing quota cannot be reasonably applied to imported goods, the Secretary may establish restrictions which he determines to be equivalent or comparable to domestic products.

2.5.1.4 CONSEQUENCES AND IMPACT OF THE ACT

This Act represents contingency legislation which may be invoked or suspended as required. It is a mechanism whereby the flow of production into the marketplace may be regulated by the government by enlisting either the voluntary or mandatory cooperation of producers, processors and handlers. Its main function is to conduct a program of supply management by means of marketing controls which, in turn, have the effect of regulating production.

The present economic and production climate in the United States does not require the operation of marketing orders and agreements and for that reason, these programs are currently dormant with respect to many commodities. However, this Act does provide for extensive government intervention in the marketing process should regulation be deemed necessary. This potential government control could have two possible effects on the agricultural process. It may encourage farmers and processors to impose self-restraint in their production and marketing decisions in order to avoid the necessity of government regulation. Alternatively, it may promote abuse of the marketing system. That is, because there is always the possibility for orders or agreements to be invoked at any time and with respect to any designated commodities, producers, processors and handlers may tend to overflow the market when no restrictions on quantity or quality are imposed.

The existence of these potential programs may also have the effect of hampering current policy directions in the United States. Large domestic and foreign markets to be serviced and depletion of carry-over stocks has resulted in agricultural policy being oriented to full production with little government intervention. However, just as the volume of production may vary significantly from year to year, so too may the policy espoused. This uncertainty both in production and policy could discourage the producer from pursuing full production in that he may be penalized if marketing orders and agreements were reinstated. Full production precipitating surplus supply would justify government controls with the result that the producer may even

be operating to his own disadvantage by following government policy guidelines. Although the imposition of orders and agreements may be subject to producer ratification or referendum, the need for these programs may be artificially induced by government production policy. Hence the producers or processors may have the opportunity to choose whether they want controls when, in fact, necessity created by government policy may leave them no alternatives except marketing orders and agreements.

Orders may contain a wide variety of provisions dealing with quantity limitation, surplus production, reserve pools, commodity inspection and quality controls. Here again, the uncertainty as to which aspects of supply management will be emphasized when an order is proclaimed may severely affect production decisions and interfere with the flow of agricultural trade. Because provisions dealing with grade, size, quality and maturity are also applicable to designated imported commodities, these orders could also be used as a means of international trade control. In this way, products entering the United States could be restricted without actually setting up trade barriers.

This Act is another example of legislation enacted to serve needs and conditions existing forty years ago. It is a means whereby the government is authorized to intervene in the marketing process even though the federal policy currently expounded is in direct contradiction to controls and restrictions contained in this Act. These methods, when used for the purpose of price stability and production adjustment, lack the continuity and consistency of an ongoing management program. For this reason,

unanticipated results may arise when proclaimed in varying conditions, making marketing orders and agreements an unsatisfactory instrument for stabilization policy.

2.5.2 Agricultural Marketing Act of 1946¹⁹

2.5.2.1 STATED POLICY: To encourage the growth and development of a sound, efficient and privately operated system for distributing and marketing agricultural products in order to ensure prosperous agriculture and the maintenance of full employment.

2.5.2.2 ANCILLARY PURPOSES: To provide for continuous research to improve the marketing, handling, storage, processing, transportation and distribution of agricultural products; to encourage cooperation among Federal and State agencies, producers, industrial organizations and others in the development and effectuation of research and marketing programs to improve the distribution processes; to develop an integrated administration of all laws enacted by Congress to aid the distribution of agricultural products through research, market aids and services, and regulatory activities in order to improve marketing methods and facilities, and reduce distribution costs; and to facilitate the useful, economic, profitable and orderly disposal of full production from American farms.

2.5.2.3 METHODS AND INSTRUMENTS OF IMPLEMENTATION

The purpose of this Act is to develop and encourage efficient and effective marketing techniques as a means of stimulating the agricultural economy. In order to carry this

¹⁹60 Stat. 1087. Approved August 14, 1946.

out, the Secretary of Agriculture is directed and empowered to perform various functions as described below. One priority of this Act is to authorize the conduct of research and experimentation in order to determine the best methods of processing, preparation for market, packaging, handling, transporting, storing, distributing and marketing agricultural products. Results of this research must be made available to the public for the purpose of expanding the use of United States agricultural products (S.203(a)). Marketing and cost analysis are included in the program in an attempt to promote more efficient and orderly marketing, and to reduce the price spread between the producer and consumer (S.203(b)).

This Act encourages the development and improvement of standards of quality, condition, quantity, grade and packaging and promotes uniformity and consistency in commercial practices (S.203(c)). It also attempts to eliminate artificial barriers to the free movement of agricultural products, to develop new or expanded markets or uses for agricultural commodities and to facilitate the movement of larger quantities of goods through the private marketing system. Supplemental to this is the necessity of consumer education for more effective utilization and greater consumption of agricultural products (S.203(f)).

Another aspect of orderly marketing dealt with in this Act is the inspection, certification and identification of the class, quality, quantity and condition of agricultural products moving in interstate commerce (S.203(h)). The purpose of these provisions regarding inspection and quality-control is to promote the marketing of agricultural products to their best advantage,

to facilitate trade and to ensure that consumers will obtain the product quality which they desire. In addition, adequate transportation facilities in order to expedite the movement of commodities to market is another important item considered by the legislation.

The issue of reserve stocks and overproduction in United States agriculture has emphasized the necessity for an accurate tabulation of market supplies, storage stocks, quantity, quality and condition of such products in various positions in the marketing channel, utilization of such products, and shipments and unloading of these goods. The Act authorizes the collection of these statistics and any other research or investigation required in the interest of more effective marketing, distribution, processing or utilization of agricultural products through commercial channels (S.203(n)).

2.5.2.4 CONSEQUENCES AND IMPACT OF THE ACT

This Act provides the authorization and appropriation of funds necessary for pursuing research and conducting programs encouraging greater efficiency in the agricultural marketing process. Although the legislation was enacted in 1946, its provisions complement the current policy of free market trading with little government intervention. It is a mechanism whereby the government is able to encourage efficient marketing without actual involvement in the administration of a specific marketing program.

The legislation is concerned with research as a means of developing a stronger marketing system and, in addition, with the dissemination of marketing information to facilitate the

orderly disposal of agricultural products to both domestic and foreign consumers. The smooth operation of free trade is contingent upon consumer education and awareness of products supplying the market. This may be accomplished by several indirect or direct methods including packaging and labeling regulation²⁰, standardization requirements for both products and containers, grading of products, and quality inspection. The provisions of this Act encourage these aspects of marketing by funding programs aimed at improving the distribution process.

However, packaging and standardization legislation may also be used as non-tariff barriers by requiring imported goods to meet with United States regulations in order to be eligible for sale on the American market. If controls are very stringent, exporting countries may be discouraged from sending certain commodities to the United States market. Alternatively, exporting countries may not be able to meet United States standards with the result that their commodities will not be allowed to enter the United States. Thus marketing controls may be manipulated so as to either protect or open the market as the need arises and consequently may be used as an indirect means of stabilizing the domestic agricultural economy.

An important function of this Act is to authorize research in the area of expanding markets for agricultural products. One method of accomplishing this is to increase domestic demand by developing new or broader uses for commodities, especially those which are in chronic surplus supply. A second method is to seek out or enlarge foreign markets for American goods. Hence, this

²⁰ This has been codified in the Fair Packaging and Labeling Act, 80 Stat. 1296. Approved November 3, 1966.

legislation may be characterized as a vehicle facilitating the disposition of agricultural commodities.

This Act provides a stimulus to the development of an efficient, privately operated system of agricultural marketing without burdening the private sector with extensive government regulation and interference. The research and data generated pursuant to this legislation creates an invaluable source of information for producers, processors, and handlers with the result that they are better equipped to gauge and service the demand for agricultural production. The provisions dealing with standardization and quality-control not only equalize suppliers but also protect and inform consumers. The result is a more competitive and more equitable marketplace for agricultural goods.

2.5.3 Federal Crop Insurance Act, as Amended-(Title V)²¹

2.5.3.1 STATED POLICY: To insure producers of specified commodities against unavoidable losses in production resulting from adverse weather conditions, disease, insect infestation and other hazards.

2.5.3.2 ANCILLARY PURPOSES: To promote the national welfare by improving the economic stability of agriculture through a sound system of crop insurance; to provide the means for the research helpful in devising and establishing such insurance; and to deal in agricultural commodities when necessary to achieve the objects of this Act.

²¹The Federal Crop Insurance Act was enacted as Title V of the Agricultural Adjustment Act of 1938. Pub. L. 430, 75th Cong., 52 Stat. 31. Approved February 16, 1938.

2.5.3.3 METHODS AND INSTRUMENTS OF IMPLEMENTATION

The purpose of this Act is to establish a program of crop insurance for producers of certain commodities. To carry out this program an agency within the Department of Agriculture, entitled the 'Federal Crop Insurance Corporation', is created by this legislation (S.503). Corporate management is vested in a Board of Directors consisting of five officers chosen from the Department and from private insurance business. These people are appointed by and hold office at the pleasure of the Secretary of Agriculture (S.505(a)).

The Corporation is an independent legal entity with all of its share capital owned by the government . It is entitled to perform certain prescribed acts, including the execution of contracts and the purchase, lease and tenure of such real or personal property as is necessary in the course of transacting its business. It is also authorized to conduct research relating to crop insurance and assemble data for the purpose of establishing an actuarial base for insurance on agricultural commodities (S.506(h)).

With respect to the actual underwriting of crop insurance, the Corporation is empowered to insure, or reinsure insurers of, producers of specified agricultural commodities against loss due to unavoidable causes, including drought, flood, hail, wind, frost, winterkill, lightning, fire, excessive rain, snow, wild-life, hurricane, tornado, insect infestation or plant disease. However, the insurance does not extend beyond the period that the insured commodity is in the field. This insurance is offered on a county-by-county basis, taking into consideration the demand of farmers for such insurance, the availability of

insurance through private insurers and the anticipated risk of loss to the Corporation (S.508(a)). Insurance pursuant to this program will not cover in excess of 75% of the recorded or appraised average yield of the commodity on the farm over a representative period. If this percentage represents more protection than the investment in the crop, it will be adjusted downward to more nearly reflect the actual crop value. Further, this insurance will not cover losses due to neglect or malfeasance of the producer, or to failure of the producer to reseed where such action would be customary.

Any payments or adjustments pursuant to an insurance policy may be made either in the agricultural commodity or in cash (S.508(c)). Indemnities are calculated on the same basis as are premiums for insurance. In addition, the corporation is authorized to purchase, handle, store, provide storage facilities for, and sell the agricultural commodities insured. The corporation may also accept, for the payment of premiums, notes payable in the commodity insured or any other cash equivalent in secured notes. Hence, actual payment of premiums may never be required until the crop is harvested and at that time it is possible that the corporation may become a dealer in the insured commodity rather than in cash.

2.5.3.4 CONSEQUENCES AND IMPACT OF THE ACT

Prior to the enactment of this legislation, farm producers had relatively little protection or recourse if their crop was damaged or destroyed by natural disaster. Few private commercial insurers were willing to underwrite crop yields because of the vulnerability of and fluctuation in agricultural production. However, the Federal Crop Insurance Program has added a degree of security to farming which has been recently supplemented by the Disaster Relief provisions of the Agriculture and Consumer Protection Act of 1973, discussed above. In addition, because the Crop Insurance Program provides for reinsurance of crop insurers, private companies are now encouraged to underwrite agricultural production policies.

Although the Federal Crop Insurance Corporation is set up as an independent entity, the fact that the United States government owns all of the share capital and that the Board of Directors holds office at the pleasure of the Secretary of Agriculture, makes the Corporation vulnerable to the administrative and political policies promulgated by government. Thus the solid and stable image of the corporation is diminished because of the political interests which surround it. However, this has not as yet acted as a barrier to producer participation in the program.

The existence of a public insurance plan constitutes a form of social welfare or income support, although in this case the party most likely to benefit from the program must pay in order to become eligible for potential assistance. The burden of this plan does not fall upon the taxpayer and is only indirectly linked to the consumer. The fact that the producer is offered

some payment when his crop fails may encourage him to continue his farming operation even through bad seasons. In absence of this scheme, a producer could face bankruptcy if his crop were severely damaged by adverse natural conditions.

However, the amount of coverage afforded by these insurance policies is minimal. The criteria for determining the indemnity to which a producer is entitled depends on the extent of his investment in the crop. Although the maximum payment is 75% of average yield, if that amount exceeds the actual investment any payment is adjusted downward. This means that the producer is limited to recovering only the amount which he has expended on a particular crop, or perhaps less than that amount if his expenditures exceed the 75% maximum. This allows no margin for continuing or extraordinary expenses incurred in the overall production process. These expenses persist regardless of whether the crop itself is indemnified and an adjustment should be made to claims to reflect those amounts required to keep the farm operational.

Premiums payable for insurance coverage may be deferred until harvest at which time settlement may be made in cash or in equivalent values of goods. This form of secured transaction arrangement raises the possibility that the Corporation could amass its own stocks or reserves in the same manner as the Commodity Credit Corporation. In addition, the Corporation is empowered to settle claims with agricultural commodities. By assuming this role as a handler or dealer in farm production, the Corporation could become a mechanism for agricultural disposal or adjustment, although it is unlikely that it would do so. Another aspect of premium deferral is the

fact that the producer has the use of that cash until harvest. Thus, the program may to some degree stimulate the agricultural economy through this extension of credit and by assuming a "wait and see" position with respect to the eventual form that premium payments will assume; that is, either in commodities or in cash.

This Act is a valuable step towards farm income stabilization and production security in spite of the fact that the protection which it offers may be to some extent inadequate to deal with severe crop losses. Although the provisions are mainly addressed to providing insurance relief to farmers faced with natural disaster, the potential does exist for this program to be used in the marketing process should the Corporation gain control of sufficient quantities of agricultural commodities. Hence, there exists a possible conflict between the Commodity Credit Corporation and the Federal Crop Insurance Corporation as to the supervision of production and marketing adjustment policies.

2.5.4 Beef Import Quota Act of 1964²²

2.5.4.1 STATED POLICY: To provide for the free importation of certain wild animals, and to provide for the imposition of quotas on certain meat and meat products.

2.5.4.2 ANCILLARY PURPOSES: To protect the national livestock industry in the interest of national welfare by restricting the quantities of fresh, chilled or frozen meat of specified varieties which may be imported into the United States.

²²Pub.L. 88-482, 77A Stat. 420. Approved August 22, 1964.

2.5.4.3 METHODS AND INSTRUMENTS OF IMPLEMENTATION

The purpose of this Act is to impose import limitations on meat and meat products entering the United States markets from foreign countries. The Act requires the President to impose quotas whenever imports of beef, veal, mutton and goat meat threaten to rise 10 percent or more above the annual average for 1959-63, adjusted to allow for growth of the United States market (S.2). The basic quota figure is 725.4 million pounds per annum. Prior to the beginning of each calendar year after 1964, the Secretary of Agriculture is required to proclaim the aggregate quantity of meat to be imported in that year. This is subject to quarterly reestimation, taking into account the quantity of imports received in the preceding quarters. If the quantity of aggregate imports estimated in each calendar quarter equals or exceeds 110 percent of the adjusted base figure, quotas are proclaimed to limit the total quantity of meat or meat products which may be allowed to enter or be withdrawn from warehouses for consumption. Conversely, if the quarterly estimates are less than 110 percent of the adjusted base figure, any restrictions on imports existing at that time are suspended and the total quantity of imports allowed into the United States is increased.

If imports are adjusted pursuant to the above formula, any increase or decrease in quantities allowed into the United States is allocated among exporting countries based on their historical role as a supplier to the United States market. Any special elements which have affected or may affect trade in such articles are given due account in making any adjustments.

Three factors are considered in determining whether quotas will be suspended or increased. These include the overriding economic or national security interests of the United States, giving special weight to the importance to the nation of the economic well-being of the domestic livestock industry; whether the supply of meat and meat products will be inadequate to meet domestic demand at reasonable prices; and any trade agreements which have been entered into for the purpose of carrying out the policy of this Act (S.2(d)).

The Secretary of Agriculture is empowered to issue any regulations determined necessary to prevent actions which will circumvent the purposes of the Act. Further, any determinations or proclamations made by the President or Secretary of Agriculture are final and are not subject to review or appeal.

2.5.4.4 CONSEQUENCES AND IMPACT OF THE ACT

This Act represents major protectionist legislation through non-tariff methods. The ultimate effect of this program is to raise the price for which domestic livestock may be sold by restricting the national supply of meat. However, it does not constitute a means of direct subsidy or price support.

Although this Act puts a ceiling on the annual maximum quantities of meat which may be imported, this figure is adjustable not only in accordance with growth in demand but also with national welfare, domestic supply and negotiated trade agreements. These flexible arrangements tend to destroy some of the underlying impact of the Act in that the "110 percent of adjusted base" figure can easily be manipulated as the necessities of politics

and foreign relations dictate. This is especially true in light of the extensive power of regulation vested in the President and the Secretary of Agriculture. In addition, the strength of bargaining power which individual exporting nations wield may have a considerable effect on how import quota adjustments will be allocated since any realignment of imports must take into consideration "special factors which have affected or may affect trade." Hence, the degree to which the United States is dependent upon an exporting country as a trading partner or as an ally in foreign relations may ultimately determine how that country will be affected by United States import quotas.

According to studies prepared by the Food and Agriculture Organization of the United Nations²³ this legislation has never been invoked. However, its existence has been used by the government to negotiate a system of "voluntary restraints" with foreign suppliers to limit the quantities of meat and meat products being sent to the United States market. It is a potential method of gaining leverage in negotiating trade agreements with the implication that meat quotas and allowable quantities of imports may be used for the purpose of achieving trade concessions relating to other commodities.

One deficiency of this Act noted in the F.A.O. report²⁴ is that consumption requirements, and hence the extent of any quota restrictions, are applied on a year-to-year basis. This means that any trade agreements aimed at limiting imports are also negotiated only one year ahead of operation, impeding any

²³ Agricultural Adjustment in Developed Countries, F.A.O., Rome, 1972, at p. 142.

²⁴ Ibid.

long-term export planning by the foreign supplier. This could be detrimental in establishing stable trade patterns and could encourage exporters to seek out new markets to the disadvantage of the United States.

Although protectionist legislation may expand the domestic market for domestic producers by limiting foreign competition, this approach to marketing adjustment and production disposal may have longer-term adverse consequences. It could possibly encourage other trading countries to raise tariff or non-tariff barriers against United States exports. Further, because it provides an indirect and artificial price support for producers by creating a somewhat "captive" domestic market, it is vulnerable to political change and policy evolution. This is especially true as free trade is encouraged since quotas and open markets are two incompatible objectives. A sudden withdrawal of quota restrictions at a time when livestock farmers are producing to meet the demands of a protected market could result in large meat surpluses and price and income instability for the producer. However, it seems that if the government is going to pursue this current policy of limited intervention, it will be forced to revoke or suspend this Act which pursues contradictory goals.

2.6 Consumer Protection and Regulatory Programs

2.6.1 United States Grain Standards Act²⁵

2.6.1.1 STATED POLICY: To provide for the establishment of official United States standards for grain.

2.6.1.2 ANCILLARY PURPOSES: To promote and protect the grain industry in the interests of producers, merchandisers, warehousemen, processors and consumers and for the general welfare of the United States; to encourage the uniform application of an official grain standard by providing means of official government inspection; and to facilitate the orderly marketing and trading in grain (S.2).

2.6.1.3 METHODS AND INSTRUMENTS OF IMPLEMENTATION

This Act promulgates official standards for specified feed grains and, in addition, provides for stringent enforcement of these provisions by means of grain inspection. The commodities regulated include corn, wheat, rye, oats, barley, flaxseed, grain sorghum, soybeans and mixed grains. In carrying out the purposes of this legislation, the Secretary is authorized to investigate the handling, grading, and transportation of grain, and to amend or revoke the standards affecting specific items whenever necessary in the interests of expedient trade relations (S.4). However, in view of the practicalities of regulating commodities of any variety, no establishment or revocation of standards may become effective less than one year after it is proclaimed. This affords an opportunity for those dealing in grains to make the necessary adjustments to conform with any changes.

²⁵Pub. L. 90-487, 82 Stat. 761-769. Approved August 15, 1968.

Whenever standards are in effect, grain may not be exported from the United States unless it has been officially inspected, either in the elevator or in the final carrier, and an official inspection certificate has been issued with respect to that grain. In some cases, however, where official inspection is impractical, these provisions may be waived. In addition, any grain moving in interstate or foreign commerce must bear an official grade designation, with or without supplemental information as to specified factors (S.6). The Secretary may authorize an official inspection pursuant to the standards specified in this Act to determine the kind, class, quality or condition of grains included in this Act as he deems necessary in pursuing the purposes of the legislation. He may also make regulations with respect to the reinspection of grains, the appeal of the results of any inspection, and the cancellation of inspection certificates (S.7).

The execution of this program is carried out by private inspectors or agencies licensed by the Secretary for renewable terms of three years. Licenses may be revoked or suspended in any case where false or incorrect certificates have been issued or where grain is knowingly or carelessly improperly inspected (S.9). Any person who has a financial interest in grain warehousing or who may be in any other position constituting a conflict of interest may not be licensed as an official inspector (S.11). In addition, the Act contains several specific prohibitions and restrictions which aid in the enforcement of the program.

2.6.1.4 CONSEQUENCES AND IMPACTS OF THE ACT

Although this Act is constructed rather simplistically with a view to merely setting grain standards and

enforcing legislative compliance, it is of considerable importance in protecting both the well-being of the consumer and the integrity of the United States grain industry. Assistance is provided to the consumer by ensuring him a high quality of goods which, lacking a certain amount of access to and expertise in the grain market, he could probably not ascertain for himself. On the other hand, the Act benefits the grain industry by protecting the image of the United States grain producer in the international market against individual handlers who might deal in substandard grains if quality and condition were unregulated. This enhances the position of the United States as a reliable supplier of government inspected grains which in turn encourages the development and expansion of international markets for United States products.

Another notable aspect of this legislation is its relevance to current agricultural policy in the United States. When a government promotes the operation of free trade and consequently moves away from policies of intervention, it is faced with the problem that steps must be taken to ensure or enhance the competitive quality of goods sold in an open market. The logical extension of this is that although one form of government regulation is suspended, another form appears to take its place. Just as fair labeling and packaging is essential in assisting consumers to make a rational choice through information dissemination, so too are prescribed levels of quality control necessary to maintain equity in the marketplace.

Although this Act represents minimal government participation in the marketing process, it may be characterized as an indirect

means of production disposal through techniques which reinforce international confidence in the value of American commodities. This method of product regulation encourages fair competition which forms a strong foundation for smooth marketing operations, although in the past some handlers have circumvented the provisions of this Act and have allowed substandard grain to enter the export market.

2.6.2 Federal Meat Inspection Act²⁶

2.6.2.1 STATED POLICY: To promote the public interest and to protect the health and welfare of consumers by assuring that meat and meat products distributed to them are wholesome, not adulterated, properly marked and properly labeled and packaged.

2.6.2.2 ANCILLARY PURPOSES: To authorize and carry out a program of meat inspection; to prevent the distribution of unwholesome meat which would impair the effective marketing of meat and meat products, injure the public welfare, and create sundry losses to producers and processors; and to prevent and eliminate burdens upon domestic and foreign commerce resulting from the distribution of substandard meat and meat products.

2.6.2.3 METHODS AND INSTRUMENTS OF IMPLEMENTATION

This Act, in an attempt to regulate the quality and condition of meat, requires the antemortem and post-mortem inspection by federally appointed inspectors of cattle, sheep, swine, goats and horses slaughtered for commercial purposes. On being inspected, carcasses must be marked as either passed or condemned and, if condemned, must be destroyed for food purposes in the presence of an inspector (S.4). In addition, any meat products prepared for distribution must also be inspected and meet

²⁶Pub.L.59-242,34 Stat.1260. Approved March 4, 1907. Amended by the Wholesome Meat Act, 81 Stat.584. Approved December 15, 1967.

the standards required by the Secretary of Agriculture, with the exception that meat for export need not comply with United States preservative regulation as long as it fulfils the requirements of the importing country (S.6). Inspection extends not only to the actual commodity but also to the sanitation conditions of the meat packing or processing plant. If the plant is found to be unsanitary, the meat or product itself will not pass government inspection.

As a means of enforcing this Act, certain prohibitions are set out. These provide that no animals may be slaughtered except in compliance with the Act, that no adulterated or misbranded articles may be sold, transported or received in commerce and that no duplication of an official inspection mark may be made except as authorized by the Secretary.

With respect to United States animals, carcasses or meat products moving in foreign trade, the Act requires that all such goods must be inspected prior to shipping to ensure that they are free from disease (S.12). Unless an inspection certificate can be produced by the shipper, a vessel containing these animals will not be cleared. Similarly, any carcasses, meat or meat products for import into the United States must also comply with the inspection standards legislated by this Act or they will be refused entry (S.20).

The Secretary is required to submit an annual report to the House and Senate Agricultural Committees discussing in detail the operation of the import restrictions of this Act. This includes a certification that all foreign plants exporting to the United States comply with United States standards, a list of the names and addresses of all plants authorized to import meat and

meat products from exporting countries, the number of inspectors and frequency of inspection involved in these import provisions, the number of inspectors licensed by each exporting country, and the total value of meat or carcasses imported into the United States per annum (S.21).

Any meat or carcasses not to be used as human food are not required to be inspected. However, these items may not be sold, transported or received in commerce or imported from a foreign supplier unless denatured or otherwise so identified except in the case where these goods are naturally inedible.

The intention of the Federal government in enacting this legislation was to cooperate with the State agencies in the development and administration of State-operated meat inspection programs. This cooperation could take the form of federal advisory assistance in planning and developing an adequate State program as well as technical or financial aid as required to pursue a scheme of meat inspection. Should any State fail to enact meat inspection legislation or fail to enforce the provisions of an enactment, the Federal Act was intended to fill any regulatory void. Otherwise State legislation would take precedence in application (S.301).

2.6.2.4 CONSEQUENCES AND IMPACT OF THE ACT

As in the case of the United States Grain Standards Act, discussed above, this Act represents consumer protection legislation promoting the development of free trade policy. It requires that meat producers and processors comply with specified standards of quality and grade in order to ensure both consumers and producers equity in the marketplace. As stated above,

consumer information and education is a major factor in the efficient operation of an open market approach to agricultural policy.

The provisions regarding the inspection of any livestock products offered for export are important to the overall livestock industry. These provisions guard against unfair competition from unscrupulous handlers dealing in poor quality products to the detriment of those who maintain certain minimum standards. Sub-standard goods may be sold at lower prices with the result that prices are depressed generally, even for quality products. The long-term effect of dealing in these goods is to send both domestic and foreign consumers in search of a market supplying better and more consistent goods with the result that demand for United States livestock products decreases and producers and processors are eventually forced out of business. Meat inspection regulations at least partially protect against these adverse possibilities.

In addition to ensuring foreign compliance with United States meat standards, the provisions with respect to the import of livestock products could be used as a means of supply management and import monitoring. Because imports must comply with United States requirements for domestic meat, standards could be manipulated in such a way as to constitute protective trade barriers. This is especially true in light of the fact that foreign exporting processing plants must also meet United States requirements. The extensive reports which must be submitted to the House and Senate Agricultural Committees could be used as a method of policing any operative livestock quotas, or

alternatively, determining the need for quotas or protective regulation of the industry.

Although this legislation was originally enacted in 1907, its provisions, as amended, continue to be relevant in meeting current market demands. Similar consumer protection measures were extended to the poultry industry in the Poultry Products Inspection Act, as amended²⁷, illustrating the need for product regulation in the marketing process. Both of these Acts serve the useful function of indirect supply management by means of quality control.

²⁷ Pub.L.85-172, 71 Stat. 441. Approved August 28, 1957.

3. EVALUATION OF LEGISLATION IN PURSUING POLICY GOALS

3.1 Current Policy Objectives

Over the past few years, the United States government has pursued a policy of reduced intervention in the agricultural sector. Changed circumstances decreased the necessity for limited production and price supports; on the contrary, demand for American production increased steadily. The legislative response was to remove restrictive provisions aimed at production control and to encourage measures which would give producers more decision-making power. Hence, the farmer became more instrumental in determining the use of agricultural resources and the pricing of farm products.

As discussed in a speech on United States agricultural policy, given by the Director of Agricultural Economics, United States Department of Agriculture¹, the new agricultural policy is considered to be market-oriented but not "free-market". The Director explains the distinction in the following terms:

"Provisions are retained for government loans on major crops, payments can be made to farmers if prices fall sharply, and a standby production-control program is provided. But these features are intended to improve the functioning of the market rather than replace it with government programs. Programs are voluntary rather than mandatory. Government retains a role in agricultural policy. But government is no longer cast as the leading actor."²

¹ Speech given by Don Paarlberg, on June 8, 1976, before the Japanese Ministry of Agriculture and Forestry, Tokyo, Japan. U.S.D.A. 1605-76

² Ibid at p. 6

The market approach to agriculture puts greater emphasis on the role of the producer in adjusting supply to demand in a system relieved of artificial political constraints. Although full production may become a national priority as demand increases and stockpiles are drawn down, the extent to which this is followed depends on commercial realities and the ability of an open market to absorb productive abundance. It is the one who is closest to the agricultural process and who must rely on the industry for his living who must assess the market and determine its requirements.

However, although the government has withdrawn its presence in the production process, this is counterbalanced by its increased importance in trade expansion and the development of new markets. The policy implications of this with respect to the domestic market has been to enhance government concern for the purchaser of agricultural commodities. Consumer education is one of the basic elements contributing to the effective operation of a loosely regulated competitive market. In order to make a rational decision, the consumer requires as much fair and accurate information as possible about available alternative goods. For this reason the government has increased the scope and intensity of its consumer protection and fair advertising regulations. In addition, greater emphasis has been placed upon pre-existing legislation prescribing packaging and labeling standards, as well as mandatory livestock inspection regulations.

With respect to foreign relations policy, the market approach to agriculture has required that the government make a concerted effort to increase sales to established trading

partners as well as develop new outlets for United States production in countries not previously engaged in trade with the United States. To this end, national trade policies have stressed the ability of the United States to produce abundant supplies at competitive prices in the world market. Foreign aid has been based on the demonstrated ability of a country to undertake self-help projects aimed at economic and social improvement. This has two implications for United States trade. First, it is envisioned that countries requiring assistance will some day be in a position to be valuable cash purchasers of United States goods, as in the case of Japan. Secondly, an unanticipated result of assistance may be the development in that country of preferences for certain goods which the country is unable to supply. The result would be the strengthening of the U.S. market because of an increased demand which it has created through foreign aid. Thus it is evident that a policy of decreased involvement in the production process has been accompanied by one of increased activity in agricultural marketing.

American policy with respect to the accumulation of reserves has also undergone a major shift. When government assumed prime responsibility for agricultural stabilization by means of price supports and supply control, one of the unavoidable side effects was the stockpiling of over-abundant commodities. This provided a constant mechanism whereby supplies could be released into the marketplace should prices rise too high but also provided a method of preventing surpluses from severely depressing the market. However this was accomplished at great expense to the government and with less than satisfactory results. Stockpiled

food was often used in both domestic and foreign welfare programs but in some cases it deteriorated before it could be usefully consumed. The accumulation of reserves within the United States also provided a constant and reliable source of supply for foreign purchasers, making it unnecessary for them to purchase in advance or invest in their own holding facilities.

The United States government is no longer willing to maintain large and costly agricultural stockpiles. Hence, there has been a conscious effort to draw down stocks held in the United States and to encourage importing countries dependent upon American goods to build the facilities necessary to meet their own reserve requirements. This shifts the financial burden of holding an inventory from the vendor to the purchaser. The Agricultural and Consumer Protection Act of 1973 authorized only the retention of sufficient quantities to meet disaster relief needs. Even the self-help requirements in the foreign aid programs have placed increased importance on the necessity of recipient countries to give priority to self-sufficiency through reserve facilities.

Another shift in policy has been for the government to undertake overt measures to protect its domestic agricultural industry from excessive foreign competition as well as to regulate the quantities of goods eligible for export. The problem which arises is the difficulty for the government to assess the impact of its actions with respect to long-term objectives. Too much insulation of the market defeats attempts by the government to withdraw from the production process. The government is offering only minimal price protection for the producer but at the same time is dictating the rules under which domestic and foreign

trade must operate. The possibility that the government may intervene in some trade negotiations, as happened in the case of the soybean embargo, weakens the bargaining power of private dealers, regardless of the fact that these protective provisions are meant only as a safeguard against abnormal conditions. Farmers who are pursuing full and unrestricted production must be able to assess the impact of their decisions on a market unhampered by artificial protective restrictions.

3.2 Legislative Contradictions

One of the most difficult problems in formulating legislation to further policy objectives is that of achieving accuracy and consistency while also avoiding implicit or explicit legislative conflicts. This is especially true in the case of agricultural legislation where there are multiple interests to be served, each one of which is attempting to direct agricultural policy towards potentially antagonistic goals. The producer's desire for higher prices and income stability must be weighed against the consumer's demand for lower prices and abundant supply. Domestic needs entailing food for social welfare programs may compete with foreign aid and international trade priorities for budgetary allocations. Processors and handlers demand expanded markets and freedom in commercial negotiations while some producer groups require market protection against foreign competition. These are just a few of the inputs coming to bear upon the policy making process.

The ideal solution would be to achieve a balance in which interests were harmonized to accomplish specified goals. However, the unfortunate but realistic approach has been to pursue a policy of unequal compromise in which the most dominant interest has

overwhelmed less important, or perhaps less pressing considerations. Although legislation may be formulated to meet these conflicting demands, enactments dealing with the weaker interests may be only reciprocally enforced when this can be accomplished without interfering with the main policy thrust. Otherwise, secondary pursuits may be sacrificed to those deemed to be of primary concern in view of current policy priorities. Should the government attempt to satisfy all factions at the same time, legislation comes to pursue contradictory goals to the detriment of coherent policy execution. It is this latter situation which has been most prevalent in the evolution of agricultural policy in the United States and which has weakened the impact of new policy directions on the agricultural sector.

The shift in policy objectives which has occurred in recent years has been a major factor generating legislative inconsistencies. Generally, the absence of or withdrawal from one area of regulation has been counterbalanced by increased regulation of another form. This was noted in the foregoing discussion of current policy objectives. When the government decreased its involvement in the production process, it assumed a greater role in agricultural marketing to ensure that there would be outlets for United States productive abundance. Conflicts arise when earlier legislation dealing with outdated policy goals is either modified to meet current needs, or perhaps just left to coexist with new legislative enactments. This produces ambiguous results since the legislative framework fails to accurately reflect the objectives envisioned. In order to be effective, policy changes must be implemented by legislation which adequately and precisely pursues the intended policy goals.

Full production in the agricultural sector as expounded in the Agriculture and Consumer Protection Act of 1973 has been one important change in policy orientation which has been restricted by laws enacted to cope with earlier chronic surpluses. For example, the purpose of the Soil Conservation and Domestic Allotment Act of 1935 was to authorize payments to those producers who withdrew land from production and devoted it to conservation uses. Incentives increased in proportion to the likelihood that the land in question would not be brought back into production. Thus, productive land reverted to its natural state at considerable cost to the government but this was in line with the policy trends at that time. This Act continues in operation, albeit with reduced incentives, although available supplies are unable to keep up with the growing demand. Should producers decide to return retired land to farming uses, there is a considerable time interval until productivity resumes its former level. Production control was pursued with overzealous measures which failed to take into account the possibility of future short supply. To some extent, this legislation locked the government into a fixed policy direction which has made deviation a difficult and lengthy process.

The Agriculture Act of 1965 has held similar implications for full production policy. That Act allowed the government to enter into contracts for periods of up to ten years whereby producers would receive annual adjustment payments on the condition that a specified acreage of productive land would be devoted to natural resource conservation. The outcome of this Act has been to create legal commitments preventing the affected

acreage from being put back into production. Here again a short-sighted approach to supply management has impeded the direct pursuit of current policy goals. The continued operation of such Acts promoting limited production counteract efforts to increase supply potential and distort the operation of legislation enacted to deal with current and ongoing policy priorities.

In addition, conservation objectives cannot be easily reconciled with the domestic and foreign aid programs administered by the Department of Agriculture. Although both policies pursue agricultural stabilization by supply regulation, these goals are achieved by contradictory methods. The role of natural resource conservation in the agricultural process is to decrease the number of acres in production with a corresponding decrease in the supply of goods available. Social welfare programs attempt to direct existing and anticipated abundance to certain groups capable of absorbing excess production. The problem here is twofold. First, the existence of these welfare programs creates an inherent obligation for the government to continue to provide food aid even when it is adverse to production policy preferences. This means that even though supply may match demand the government should be devoting additional land resources to food production for aid programs rather than encouraging natural resource conservation. The concept of productive land lying dormant is inconsistent with fulfilling the food requirements of the world's hungry people. Secondly, the fact that aid programs provide a constant outlet for agricultural over-production means that farming is geared to satisfy these requirements as well as those of the commercial market. It is ironic that legislation aimed at coping with

surpluses and regulating supply may in fact stimulate excessive production by constructing artificial, publically-funded markets.

The interaction of these particular legislative instruments in the pursuit a specified policy goal of supply management creates a situation in which the methods could negate the results. On the one hand, if the aid programs are to be successful then conservation programs must lapse. However, if the production control programs accomplish their goals of adjusting supplies to commercially feasible amounts then the schemes for food aid may be superfluous and dispensible in the interests of sound agricultural economics. These legislative programs, when undertaken at the same time, create opposing forces unable to effectively meet the policy goals intended by the individual pieces of legislation. Although these Acts may operate well in isolation, their compounded effect could be to defeat the aims of other enactments in the same area.

The program of acreage allotments and target prices established pursuant to the Agriculture and Consumer Protection Act of 1973 is another area where incongruous results ensue in the actual operation of the legislation. Even though this Act suspended the requirement of mandatory set-aside acreage in order to encourage full agricultural production, payments under the target price program were based on historical acreage allotment figures. That is, although a farmer planted all of his land in accordance with federal policy and ignored previous allotment limitations, any support payments forthcoming from the government would be calculated by considering total output as if it were derived from the assigned acreage allotments. Testimony by producers before the Senate Committee on Agriculture revealed that this has artificially enhanced production and farm

profit figures with the result that many producers who should receive support on their actual production figures have been denied assistance due to the deemed production figures estimated under this formula. Payments pursuant to the disaster relief provisions are also calculated according to this formula. This has created an inequitable situation whereby policy statements are not adequately supported by law. Those farmers who pursue government policy are quite likely to be penalized should they meet with adverse production or marketing conditions. Conversely, those who do not follow purported policy guidelines are those who will be compensated for any losses incurred. The only ones who are assured of protection are those who do not undertake any production risk. This type of legislative anomaly reduces confidence in the reliability and integrity of the government and undermines the basis for voluntary support of the policy directions which it pursues.

Of prime concern to the United States in recent years has been the expansion of trade and the growth of additional markets for its products. Agriculture has played an increased role in coping with the balance of payments deficits, which have been attributable in part to the higher cost of energy imports. For this reason, the importance of foreign purchasers cannot be ignored. However, the United States has also confronted the international market with measures designed to protect domestic producers from excessive competition with respect to foreign import. The Trade Expansion Act of 1962, in the guise of legislation authorizing the contracting of international trade agreements, provided the President with broad discretionary powers to

protect the United States market from factors impairing the national security. The extent to which protective measures were implemented depended upon national demand estimates and the ability of domestic producers to supply sufficient quantities of goods. The implication for foreign trade has been not only that foreign imports may be increased when needed but also that barriers may be erected to ensure the well-being of the American producer. The Act approaches the international market with a double standard, on the one hand expecting trading countries to keep their borders open to all that the United States can produce while on the other hand willing to close its own borders should the need arise. The threat that these powers may be exercised creates an unequal trading position and is counter-productive to the development of strong foreign relations.

Foreign aid programs may tend to inhibit trade expansion in that the longer these programs are pursued the more reliance is placed in them. It has been argued that the availability of goods supplied through assistance programs may reduce the price of goods on the local market and decrease the incentive of farmers to produce for that market. Hence, food assistance may actually discourage economic development. Alternatively, the fact that aid is conditional upon self-help programs being undertaken may result in the growth of self-sufficiency in the assisted country at the expense of the American export market. Although these programs may enhance the wealth of these countries and enable them to become cash purchasers of American goods, it is also possible that the quantities of United States commodities needed may be reduced as a result of these programs. Thus the effect of

legislation aimed at disposing of surplus production may be to diminish the impact of trade expansion policy.

Support programs in the grain industry have had interesting repercussions in other parts of the agricultural sector. Government policy for many years has been formulated with a view to finding outlets for the abundant quantities of grain produced in the United States as a method of keeping producers in business and securing them from adverse market forces. One solution has been to direct more grain to the livestock industry and encourage a higher level of meat consumption in the United States. The result has been to pass the problem on from the grain producers for whom there are support programs, to livestock producers who lack public assistance. Livestock farmers have recently been faced with overproduction and have had no alternative but to lower prices and eventually cut back herds. This leads to instability of prices and incomes which harm both producers and consumers. Only when the livestock industry was in severe difficulty was the Beef Import Quota Act created. Thus the problem of United States grain surpluses was indirectly shifted into the world livestock market through a chain of legislative programs. In this case, legislation was implemented with a view to compensating for programs pursued at an earlier time without attempting to resolve the deficiencies which in fact rendered those programs ineffective.

3.3 Legislative Responses, Adaptations and Directions

Changing policy directions in the United States have resulted in the modification of legislation to meet current needs. The approach to agricultural regulation has been to harmonize existing legislation with new policy objectives. This has meant that laws have had to be sufficiently flexible or, in some cases, sufficiently general, in order to be effective in an evolving agricultural environment.

The United States government has taken a conservative approach to agricultural policy implementation. Changes have been introduced slowly and cautiously with few major policy shifts being undertaken. Legislative extension has been one method of continuing previous policies. For example, the Agriculture and Consumer Protection Act of 1973 enacted provisions which authorized that many of the programs in the Agriculture Act of 1970 be maintained until 1977. In that year, the viability of these programs will be reassessed and unless basic contradictions with current policy objectives are found, it is likely that they will be continued for another four years period. Some of these provisions were first enacted in the early 1960's which means that these programs have endured longer than originally anticipated by means of legislative revitalization. One problem which arises is whether the original policy makers intended this approach to be taken when the legislation was first enacted or whether the intent was that these programs satisfy a temporary, short-term purpose and then cease to operate. In addition the adequacy of these programs in meeting current and ongoing needs is also open to question. The danger of continually extending programs is that insufficient consideration

may be given to the true nature of the problems to be resolved and the efficiency of the legislative instruments employed.

The government's move towards greater production freedom and open market trading in agriculture has increased the necessity for consumer protection legislation. The smooth operation of a competitive market is dependent upon the amount and nature of the information available to those dealing in that market. The legislative response to decreased government control of the marketing process has been increased regulation of the standard and quality of goods as well as of the advertising pertaining to those products. Here again, as government has withdrawn from one area of the agricultural sector, it has become more involved in another. For that reason, marketing legislation in the United States now places greater emphasis on research objectives, consumer information, fair trade practices, and packaging and labeling regulation whereas at an earlier time legislation centred mainly upon controlling the quantities of goods allowed into the marketplace. This in turn was tied to restrictions on the volume of commodities actually produced. The nature of the policy shift necessitated these legislative adaptations to meet current trends and requirements.

There are many examples in the course of agricultural policy-making in the United States which illustrate how legislative measures have been used to balance the influence of external forces affecting the agricultural process. In times of abundance and stockpiling, the government enacted the Soil Conservation and Domestic Allotment Act to encourage the pursuit of natural resource conservation and, hence, the withdrawal of

farm land from production. When production failed to meet demand, no further payments were offered for acreage which was set aside and, under the Agriculture and Consumer Protection Act of 1973, mandatory compliance with acreage allotments was no longer required, although as noted above this could operate to the detriment of the producer. Marketing quotas and agreements, either on a voluntary or compulsory basis, were enacted as contingency legislation for the purpose of regulating the flow of goods into the market. Hence, in times of short supply, quotas were suspended as necessary to ensure the availability of greater quantities of food.

As food aid programs were no longer needed for the purposes of supply management and the cash demand for agricultural goods increased, the volume of assistance rendered through these programs was reduced. The Agricultural Trade Development and Food Assistance Act of 1954, which established a program of foreign food aid, had originally appropriated a specific sum of money for carrying out the purposes of this Act. The reduction of assistance extended under this program was achieved by means of maintaining a constant dollar level ²⁶ of goods allocated to the plan with the result that as inflation decreased the purchase power of the allocated funds, the volume of food available for distribution diminished. In fact, the legislative adaptation to a policy of reduced aid was achieved by maintaining assistance at its historical level and allowing external forces to shape the ultimate results.

²⁶ In 1973-74 the absolute current dollar level of PL 480 allocations was actually reduced.

The depletion of stockpiles created the need for legislation which would insulate those dependant upon the maintenance of reserves from the effects of excessive reductions. For that reason, provisions for disaster relief were incorporated into the Agriculture and Consumer Protection Act of 1973 authorizing the accumulation of minimal reserve stocks sufficient to meet extraordinary conditions. Another legislative adaptation to diminished government-controlled stockpiles and greater production freedom was embodied in the Commodity Credit Corporation Charter Act. The Act authorized the extension of public financing to producers for the purpose of constructing adequate storage facilities on the farm. This was designed to discourage the warehousing of commodities in centralized, government-controlled silos and accordingly delegate to the producer more responsibility with respect to supply management. This meant that the producer would be able to either hold or release his goods depending upon current market trends rather than be forced to sell his crop at an inopportune time because of the lack of sufficient private storage space. This increased ability of the farmer to participate in the marketing process diminished the necessity of government involvement in supply regulation.

Trade expansion and domestic market protection have received increased attention in the United States and these policy goals have been reflected in its legislation. The Agriculture and Consumer Protection Act of 1973, while

encouraging full production, also maintained the concept of "set-aside acreage". However, in an attempt to promote national self-sufficiency, the Act provided that any crop of which the United States was a net importer could be grown on set-aside acreage without impairing the producer's eligibility for set-aside payments. In this case, legislation was used to compromise two specific and competing policy objectives, one being that of limiting imports and the other that of natural resource conservation, the purported goal of the set-aside provisions.

The most recent statement pertaining to the position of the United States vis à vis foreign relations policy is found in the International Development and Food Assistance Act of 1975. This Act reinforces trade expansion by means of an indirect approach. Provisions in the legislation emphasize the fact that the United States looks to increased food or financial contributions by other countries to an international assistance fund. The implications of this would be first, that the United States could reduce its own international food assistance commitment, and secondly that it could sell food to participating wealthy countries for delivery to countries in need and hence develop additional cash markets for United States goods. By modifying its international aid program to make it relative to the efforts forthcoming from other countries, the United States has been able to once again use foreign assistance to its advantage. Programs which had previously been instrumental in absorbing surplus production could take on a slightly different form and become of major importance in expanding trade relations.

3.4 The Impact of Legislative Methods

The harmonious interaction of legislative instruments is a key factor in the effective regulation and supervision of the agricultural process. Each Act discussed in Part II represents a precise legislative response to conditions necessitating government intervention. However, it is the combined impact of these Statutes which determine the adequacy of legislation in furthering policy objectives. The legislative framework for United States agriculture consists of an accumulation of laws reflecting various policy trends over a period of several years. Laws have been enacted to regulate all possible aspects of the agricultural process, from production to marketing to food assistance. In addition, legislation has been formulated to pursue a multiplicity of policy objectives. The notable feature of the United States approach to agricultural regulation is the fact that once laws are created, they are maintained regardless of whether or not they meet current policy needs. As the network of laws has grown and the complexity of regulation increased, legislative conflicts have become inevitable. This has had the effect of diminishing the efficiency of legislative instruments and, in some cases, completely negating the impact of the law in pursuing policy goals.

The basic characteristics of the United States agricultural sector have undergone considerable change since the government first assumed a prominent role in regulating production and markets. It was the problem of abundance which originally inspired intervention. American farmers seemed to have the capacity

to produce unlimited quantities of food in a country whose resources were highly conducive to agricultural activities. Laws were focused on methods of crop reduction and control, and the government assumed a paternalistic role which was reflected the legislation it propounded. The approach was to keep the farmer in business by having the government become a major purchaser of his goods. Support programs coupled with massive stockpiling became very costly to the public but the government was committed to this form of agricultural assistance.

The legislation which was formulated to carry out these programs was retained even when the United States shifted its agricultural policy. Growing world affluence and increased demand for food turned the problem of surpluses into an important asset. The amended policy, as set out in the Agriculture and Consumer Protection Act of 1973 was to promote full production with minimal reserves by means of decreasing government involvement in the agricultural process. This meant that legislation was required to decrease the commitment to production support programs and the method employed was to modify earlier Acts which in fact pursued contradictory policy goals. For example, the mechanisms for supply management programs were retained but amended to change the emphasis from mandatory to voluntary acreage control. The underlying theory was that farmers in an unrestricted environment would produce to meet the market demand. At the same time, acreage allotments continued to form the basis for assistance eligibility in limited disaster relief and support programs.

The outcome of this approach to policy implementation has been to create a wide discrepancy between the policy propounded by the government and the legislative instrument used. In

this case, an attempt was made to pursue opposing policy objectives merely by amending prior enactments with the result that the provisions were inadequate in dealing with the problems at hand.

The programs established in the pursuit of various policy goals have extended beyond the strict confines of agricultural regulation. For example, in the interests of distributing surplus production, the Agricultural Trade Development and Assistance Act of 1954 was enacted to authorize the donation or concessional sale of food to foreign countries in need of assistance. In addition, domestic aid programs were set up under the School Lunch Act, Food Stamp Act and Child Nutrition Act for the purpose of creating outlets for excessive food supplies. The enactment of agricultural legislation in terms of social welfare programs has been subject to criticism in that it requires the Department of Agriculture to assume responsibilities beyond its general scope of activities. It has been argued that there are other government agencies already established for the purpose of pursuing welfare programs. Hence, the combination of welfare and agricultural programs not only result in an overlap of services but also a duplication of the personnel and resources required to administer the programs. Moreover, those welfare-oriented departments are probably better equipped with people specifically trained to execute social welfare goals.

Another problem arising out of this form of legislative interaction is that of the Department of Agriculture serving potentially antagonistic interests. These programs were established for the purpose of distributing surplus production to hungry people. Should conditions change and these criteria disappear, a choice

will have to be made as to whether the producer or the recipient should receive priority treatment with the result that one group will be placed at a disadvantage by legislation originally intended to assist both. This form of legislative response is premised on the circumstances which necessitated government intervention remaining constant. Otherwise the policy objectives are distorted because of the imbalance of interests represented.

The foreign assistance programs are part of a larger foreign relations role which the Department of Agriculture has assumed as a result of the increasing importance of the United States in supplying the world food market. As a result some decisions and programs within the agricultural sector have reflected more political than producer-oriented considerations. For example, in some cases food trade agreements have been negotiated with a view to obtaining strategic advantages either by ensuring the availability to the United States of goods vital to the "national security" or by using food to gain leverage in other commercial dealings. Agricultural trade has also been instrumental in developing friendly international relations and encouraging the commitment of allies. Conversely, agricultural boycotts or embargoes have been enlisted when necessary to express dissatisfaction with the actions of other countries in operations which affect the United States.

The manipulation of agriculture as an instrument of foreign policy makes the industry vulnerable to political forces. Effective long-range agricultural planning is based on the continued existence of basic constant factors. When these factors are altered by the intervention of political decisions, policy

objectives are relegated to a position of secondary importance and, depending upon the nature of the political input, original policy directions may no longer be relevant. The importance of strong trade relations to a nation which relies heavily on its ability to export food commodities cannot be underestimated but the integration of agriculture and foreign relations is not conducive to the pursuit of stable farm policy.

Through a process of slow and indirect methods, the United States has attempted to reduce its involvement in the production sector without causing a major disruption in the agricultural industry. Current policy has recognized the weaknesses of providing continuous farm support as well as the high public costs and unavoidable wastage of food incurred as a result of extensive government intervention. However, there are many difficulties encountered in withdrawal. First of all, the producer must adjust his operations to competitive market forces. This means that the farmer must assume a decision-making role in a commercial environment in addition to his production responsibilities. He is no longer able to rely upon the government to assess market demands and determine supply requirements. Farm income becomes a function of the productivity and efficiency of the producer with minimal price protection available only in extreme circumstances.

Secondly, the fact that acreage allotments, especially with respect to certain commodities, represented a transferrable property right resulted in that right becoming capitalized into higher land values. The new policy encouraging full production suspended allotment provisions and hence diminished the value of those production rights. In this case the shift in policy adversely affected those producers who entered the agricultural

sector after the institution of the acreage allotment system and were required to pay a higher price to establish their operations. Therefore the problem which faces the government is whether those disadvantaged farmers should be compensated for losses incurred as a result of changed policy orientations. Production control policy created windfall gains for one generation while full production policy destroyed the value of agricultural rights for which the second generation had had to pay.

In conclusion, the legislation which currently governs agricultural production and marketing in the United States represents a variety of policy objectives which over the years have been codified into law. In some cases these Acts pursue complementary goals and reinforce the operation of one another. However, more often laws have been enacted with a view to providing an isolated solution to a particular problem with little consideration being given to the relevance of this Act in the overall agricultural context. As the total volume of legislation increases, prior enactments are subject to diminished scrutiny and critical evaluation. The result in the United States has been the perpetuation of outmoded legal statements. This proliferation of legislative instruments has subsequently met with only limited success in satisfying the current needs of the agricultural sector.

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