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I. EUGENIC BREEDING AND AFFIRMATIVE ACTION .............................................................................94
Introduction to the special issue of *Governance*

Pierre Lascoumes and Patrick Le Galès
0. From the nature of instruments to the sociology of public policy instrumentation

Policy instruments, often analysed as peripheral in the understanding of public policy, are back in favour. In Europe for instance The EU White Paper on Governance (2001) is a remarkable example of the somewhat naive expectations raised by “new” or “innovative” policy instruments of improvements in the effectiveness and democratization of this polity. In the US, the major book edited by L.Salamon in 2002, The tools of government, A guide to the new governance, provides a clear and authoritative account of the importance of policy instruments in understanding contemporary governance. The issue of public policy instruments is still relatively little explored by academic analysts. However, a tradition of such research exists in the United States (on instruments of economic regulation), in the UK with Christopher Hood’s important work (Hood 1983) and in the Netherlands (Kickert and al. 1997). Hood’s article in this issue surveys the literature and typologies of instruments. In his review, he makes a distinction between the “Institutional form as instrument”, and the “politics of instrumentality”. Therefore in this introduction, so we shall not return to that theme in this paper.

The dynamics of growth of the state during the 20th century were accompanied by the development and diversification of public policy instruments and by the accumulation of programs and policies in the different sectors where the state intervenes. Each phase of state development or restructuring has been accompanied by a new wave of innovations relating to these instruments. That was the case during the rapid growth of the welfare state in the post war period.

The current phase is no exception. The proliferation of actors and coordination instruments has been noticed in an ever-increasing number of sectors for instance in recently expanded areas of public policy, such as policies on risk (environmental risks, health risks, etc.) (Gun-ningham and Grabosky 1998), the regulation (statutory or otherwise) of the market, building infrastructures, running utilities, and state or welfare state reforms (Moran, 2003). Some authors have brought out a new paradigm: “the new governance” (Salamon, 2002, Rhodes, 1996), or “new negotiated governance”, in which public policies are less hierarchized, less organized within a sector demarcated or structured by powerful interest groups (for example, urban policy, environmental policy, new social policies or the negotiation of major infrastructures) – at the risk of denying the interplay of social interests and of masking power relations. Over and above deconstructing this issue (as well as the limits of government and failures of reform), research into government and public policies has highlighted the renewal of public policy instruments either for the development of depoliticized formulas in “the new governance” or through fostering powerful mechanisms for the control and direction of behaviors (Hood et al.1998).

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1 This special issue of Governance results from the work of a research group of scholars in Sciences Po Paris and Dpt of Politics and International Relations Oxford, with the support of the GDRE “European democracies” an Oxford/Sciences Po research group funded by the CNRS, the Dpt of Politics and International relations at Oxford, Sciences Po Paris, the Maison Française d’Oxford. Revised papers were discussed at the conference on policy instruments organised at Sciences Po Paris/CEVIPOF in December 2004. The preparation of the special issue and the conference were funded by the 6th Framework NEW GOV Research Programme. This paper also benefited from discussion in the “Policy Instruments Group” over the last three years which we organised at CEVIPOF, Sciences po Paris.

2 See the interesting EU Website on European governance : http://europa.eu.int/comm/governance
However, public policy instrumentation and its choice of tools and modes of operation are generally treated either as a kind of evidence, a purely superficial dimension (governing means making regulations, taxing, entering into contracts, communicating, etc.), or as if the questions it raises (the properties of instruments, justifications for choosing them, their applicability, etc.) are secondary issues, merely part of a rationality of methods without any autonomous meaning. A good deal of the public administration literature devoted to the issue of instrumentation is marked by a functionalist orientation, with five characteristic features:

- public policy is fundamentally conceived as pragmatic – that is, as a political and technical approach to solving problems via instruments;
- it is argued that these instruments are ‘natural’; they are viewed as being ‘at our disposal’, and the only questions they raise relate to whether they are the best possible ones for meeting the objectives set;
- the central set of issues is around the effectiveness of instruments. Research into the implementation of policies is largely devoted to analyzing the relevance of instruments and evaluating the effects they create;
- faced with the deficiencies of the classic tools, the search for new instruments is pragmatic in aim and is very often seen either as offering an alternative to the usual instruments (whose limits have been shown by the numerous works on implementation) or as designing meta-instruments to enable coordination of the traditional instruments (planning, organization charts, framework agreements);
- analyses often take as their point of departure either the importance of specific public policy networks or the autonomy of subsectors of society; but these lines converge when they make the choice and combination of instruments a central issue for a public policy conceived in terms of managing and regulating networks, far from the classic questions of political sociology.

By contrast, we argue that instrumentation is a significant avenue for reflection, primarily because it produces its own effects. In his major book on statistics, Desrosières (2002) has clearly shown this: “Statistical information does not fall from heaven, purely the effect of a ‘prior situation’. On the contrary, indeed: it can be seen as the temporary, fragile culmination of a series of equivalence agreements between beings that a multitude of disordered forces continually seek to differentiate and separate” (p.397). The common language and representations that drive statistics create the effects of truth and an interpretation of the world.

This introductory paper aims to explain the significance of a political sociology approach to public policy instruments in accounting for processes of public policy change. We identify the different analytical dimensions of policy instruments and the process of instrumentation, in order to analyse policy changes. The papers put forward in this special issue aims at concretely analysing policy changes by using the policy instruments framework. We mainly present two arguments 1) public policy instrumentation is a major issue in public policy, since it reveals a (fairly explicit) theorization of the relationship between the governing and the governed: every instrument constitutes a condensed form of knowledge about social control and ways of exercising it and 2) that instruments at work are not neutral devices: they produce specific effects, independently of the objective pursued (the aims ascribed to them), which structure public policy according to their own logic. The other papers in this issue of Governance then use this framework for the analysis of policy instruments to analyse cases of policy changes.
I. **Political sociology of policy instruments and instrumentation**

Public policies are often analyzed as the result of interests interplay or institutional structure. We want to argue that although instruments use a technical or functionalist approach, this conceals what is at stake politically. By emphasizing the political sociology of policy instruments, we want to stress power relations associated to instruments and issues of legitimacy, politicisation or depoliticisation dynamics associated to different policy instruments.

Public policy is a sociopolitical space constructed as much through techniques and instruments as through aims or contents. A *public policy instrument* constitutes a device that is both technical and social, that organizes specific social relations between the state and those it is addressed to, according to the representations and meanings it carries. It is a particular type of institution, a technical device with the generic purpose of carrying a concrete concept of the politics/society relationship and sustained by a concept of regulation. Using the concept of public policy instrument allows us to move beyond functionalist approaches, to see public policy from the angle of the instruments that structure policies. This choice of method replaces the classic approach through policy substance with observation and analysis from the point of view of instruments. In a way, it involves deconstruction through instruments, trying to see how the instrumentation approach allows us to address dimensions of public policy that would otherwise not be very visible. Moreover, public policy instruments are not tools with perfect axiological neutrality, equally available: on the contrary, they are bearers of values, fueled by one interpretation of the social and by precise notions of the mode of regulation envisaged.

It is possible to differentiate between levels of observation by distinguishing between ‘instrument’, ‘technique’ and ‘tool’: for the sake of clarity we suggest to understand

- the instrument as a type of social institution (census taking, map making, statutory regulation, taxation);
- the technique as a concrete device that operationalizes the instrument (statistical nomenclature, a type of graphic representation, a type of law or decree);
- the tool as a micro device within a technique (statistical category, the scale of definition of a map, the type of obligation provided for by a legal text, presence/absence of sanction).

*Public policy instrumentation* – in our understanding – means the set of problems posed by the choice and use of instruments (techniques, methods of operation, devices) that allow government policy to be made material and operational. Another way of formulating the issue is to say that it involves not only understanding the reasons that drive towards retaining one instrument rather than another, but also envisaging the effects produced by these choices. By way of indication, a brief catalogue of these instruments can be drawn up: legislative and regulatory, economic and fiscal, agreement- and incentive-based, information- and communication-based. But observation shows that it is exceptional for a policy, or even a program for action within a policy, to be monoinstrumental. Most often, the literature notes a plurality of instruments being mobilized and then raises the question of coordinating them (M.L. Bernelmans-Vides et al. 1998). This perspective ties in with some of the American literature, like the works of Linders and Peters (1990, 1998), which points out the cognitive dimension of instruments. For them, the issue of the choice of instruments is intimately linked

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to the issue of policy design, which means “the development of a systematic understanding of the selection of instruments and an evaluative dimension” (Linders and Peters 1984).

Some examples taken from the papers published in this special issue give some concrete example of both policy instruments and policy instrumentation.

For instance, “The Hidden Politics of Administrative Reform: Cutting French Civil Service Wages With a Low-Profile Instrument” Philippe Bezès analyses the “invention” of a new, low-profile policy instrument in the 1960s, and then follows its development, the conflict surrounding its growing role and its long-term implications through to the 1990s. The RMS (raisonnement en masse salariale, a method that measures growth in wages using a calculation based on the overall wage bill) gradually became an unobtrusive strategic instrument of the policy of civil service expenditure reduction. Bezès stresses the increasing role of automatic, incremental mechanisms (Weaver 1989). Despite some success, the extensive use of the RMS as a lever for the policy of economic stringency was a quasi-invisible public policy instrument whose inconveniences and limitations came clearly to light during the 1990s. In many ways, the robustness of the instrument — its guarantee of efficiency — also led to major drawbacks, resulting from its own properties and from the instrument-dependency it created.

Olivier Borraz’s paper, “Standards: depoliticized instruments of public policy”, shows how the sphere of standards has been extended, part of the process leading to the development of a regulatory state. Standards illustrate the tendency of the public authorities to delegate responsibility to private sector organizations for preparing and monitoring implementation of documents that sometimes have almost the force of law. They are among those low-profile policy instruments that are beyond the reach of the usual political processes developed through consultation between different interests. Borraz analyses the rise of these instruments and their impact on two contrasting polities: France and the EU.

Bruno Palier most clearly takes up the challenge of analysing the relationship between choice of policy instruments and policy changes in his paper, “Tracking the evolution of a single instrument can reveal profound changes: the case of funded pensions in France”, He attempts to make sense of pensions reforms in France by arguing in a direction counter to the path dependence theory that underlined the dynamics of the frozen welfare state. He stresses the contrast between the classic approach to policy changes in that field (analysis of demographic, financial and economic causal constraints; study of the government actors’ political and ideological positions; analysis of mobilizations of coalitions of interests; consideration of the constraints exercised by political institutions) and an approach centered on the intellectual tracking of a particular instrument (in this case, funded pensions), which proves fruitful in understanding state pensions reforms in France. However, he also accurately points out that changing instruments can give the illusion of change, summarizing one case as follows: “Change the instruments so as not to change the world”.

In contrast, Desmond King’s paper, “The American State and Social Engineering: Policy Instruments in Affirmative Action”, shows the origins, values and long-term impact of a highly visible policy instrument: affirmative action. He emphasizes that this policy instrument is particularly salient in terms of representation and of the meaning it carries – aiming to do no less than redraw the boundaries of citizenship in the face of historical injustices. Thus, King gives a detailed analysis of the background and debates that led to this choice of instruments. He then follows the instrument over time, stressing the way in which it gradually gained ground in different policy fields – ranging from education to business ownership – within a context of
permanent conflicts over legitimation. He then concludes by looking at the added value of the “instrument” approach to analysis of the US state.

Those examples demonstrate that the definition that we use attempts to respond to questions about the possibilities of distinguishing between the instruments and the aims pursued. According to Hood, “multipurpose instruments” exist that carry ambiguities (Hood, 1887). But on the other hand, do pure, unambiguous instruments really exist? Do all types of taxes have the same meaning and the same scope? Similarly, much of the literature of the sociology of law shows the extremely heterogeneous nature of the legal provisions that organize the monitoring of sectors such as health and safety at work, consumer protection, competition or the environment (Killias 1985; Rothleuner 1985). We take the view that every instrument has a history, of which it remains the bearer, and that its properties are indissociable from the aims attributed to it. Similarly, because an instrument has a generic scope – that is, it is intended to apply to diverse sectoral problems – it will be mobilized by policies that are very different in their form and their basis. However, our theoretical point of view involves not entering into an endless debate on the “nature” of instruments, but situating ourselves where we can view the effects that they generate: that is, looking from the point of view of the instrumentation at work. We do this from two complementary angles: by envisaging first the effects generated by instruments in relative autonomy, then the political effects of instruments and the power relations that they organize.

This approach also relates to literature from the history of technology and the sociology of science, which has denaturalized technical objects by showing that their progress relies more on the social networks that form in relation to them than on their own characteristics. Gilbert Simondon (1958) was one of the first to study an innovation not as the materialization of an initial idea but as an often chaotic dynamic that sets information, adaptation to constraints and arbitration on a path of convergence between divergent routes of development. He went on to talk about the process of concretization, taking into account the combination of heterogeneous factors whose interactions produce – or fail to produce – innovation. Michel Callon’s and Bruno Latour’s sociology of science (1988, 1989) developed this perspective by rejecting the retrospective view that suppresses moments of uncertainty and sees creation only as a series of inevitable stages moving from the abstract to the concrete, from the idea to its concretization. Translation of and through technical instruments is a constant process of relating information and actors, and of regularly reinterpreting the systems thus created.

As far as these general theoretical bases are concerned, thinking in the management sciences is highly convergent with ours. From 1979, Karl Weick studied the history of certain management instruments from an angle inspired by the sociology of science. He was able to show that some found their origin “in social games” while others were “enacted”. One – fairly diversified – research trend aims to draw management tools, “accounts and counting”, out of their invisibility and to describe their properties and specific effects (Berry 1983; Moisdon 1997). Behind the apparent rationality of organizations, this trend is attempting to understand the tacit rules imposed by management instruments and what they mean in terms of power and of dissemination of cognitive models (Maugeri 2001). Using the terms “device”, “tool” and “instrument” as equivalent, this literature concurs in pointing out that, while these management instruments are heterogeneous in nature, they all have three components: a technical substrate, a schematic representation of the organization and a management philosophy (Tripier 2003).

Public policy instrumentation is therefore a means of orienting relations between political society (via the administrative executive) and civil society (via its administered subjects), through intermediaries in the form of devices that mix technical components (measuring,
calculating, the rule of law, procedure) and social components (representation, symbol). This instrumentation is expressed in a more or less standardized form – a required passage for public policy – and combines obligations, financial relations (tax deductions, economic aid) and methods of learning about populations (statistical observations). Max Weber talks at different times of the technical superiority of bureaucracy by comparison with other forms of administration. He shows as fully developed bureaucratic apparatus compares with other organizations. And the perfect adaptation of bureaucracy to capitalism is based on its capacity to produce calculability and predictability. These techniques have been enriched and diversified in the contemporary period (the 20th century), with new frameworking tools based on contractualization or tools of communication (information required), which nevertheless still have the characteristics of devices.

James Scott in his book “Seeing like a state”, provides many examples of ways through which medieval European states forged what he calls “tools of legibility” (p.25) such as various measures in order to ensure legitimate power and to develop rationalist interventionist schemes. His analysis of “the politics of measurement” is a good example of what is at stake in policy instrumentation. In the same vein Alain Desrosières shows that, in 18th-century Germany, statistics were “a formal framework for comparing states. A complex classification aimed to make it easier to retain and to teach facts, and for those in government to use them”, which is why it produced a taxonomy before it went on to quantify.  

We should note, however, that the issue of selecting public policy instruments and their mode of operation is generally presented, in a functionalist manner, as a matter of simple technical choices. When a given analysis takes the issue of instruments into account, it is most often a secondary area, marginal by comparison with other variables such as institutions or the actors’ interests or beliefs (Sabatier 2000). However, there is a clear trend in the American literature towards taking into account certain political dimensions of instruments, viewed either through the justifications that accompany the use of one device or another (Salamon 1989, 2002; Linders and Peters 2002) or as an indicator of failure in the handling of policies. This approach through instruments is a mode of reasoning that allows us to move beyond the division between politics and policies.

Instruments are institutions in the sociological meaning of the term. ‘Institution’ is used to mean a more or less coordinated set of rules and procedures that governs the interactions and behaviors of actors and organizations (Powell and Di Maggio 1991). Thus, institutions provide a stable frame, within which anticipation reduces uncertainties and structures collective action. In the most firmly sociological version, or the nearest to culturalism, the view is taken that these regularities of behavior (for example, appropriate behaviors) are obtained through cognitive and normative matrices, coordinated sets of values, beliefs and principles of action, even through moral principles unequally assimilated by the actors and which guide their practices (March and Olsen 1989; Eckstein 1988). In that sense, public policy instruments are not organizations, or agencies. A great deal of literature has shown how institutions structure public policies. We want to show how instruments – a particular type of institution – structure or influence public policy.

Instruments really are institutions, since they partly determine the way in which the actors are going to behave; they create uncertainties about the effects of the balance of power; they will eventually privilege certain actors and interests, and exclude others; they constrain the actors, while offering them possibilities; they drive forward a certain representation of problems. The

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4 Desrosières, op. cit., p.399.
social and political actors therefore have capacities for action that differ widely according to the instruments chosen. Once in place, these instruments open new perspectives for use or interpretation by political entrepreneurs, which have not been provided for and are difficult to control, thus fueling a dynamic of institutionalization (Fligstein, Sweet Stone and Sandholz 2001). The instruments partly determine what resources can be used and by whom. Like any institution, instruments allow forms of collective action to stabilize, and make the actors’ behavior more predictable and probably more visible.

From this angle, instrumentation is really a political issue, since the choice of instrument – which, moreover, may form the object of political conflicts – will partly structure the process and its results. Taking an interest in instruments must not in any way justify the erasure of the political. On the contrary, the more public policy is defined through its instruments, the more the issues of instrumentation risk raising conflicts between different actors, interests and organizations. The most powerful actors will be induced to support the adoption of certain instruments rather than others. As Peters wisely points out (2002), to start by analyzing the interests implicated in the choice of instruments is always a good idea in the social sciences, even if this dimension frequently proves insufficient on its own.

From there, we need to focus more closely on two major, interlinked questions. First of all, what relationship exists between a particular public policy instrument (or group of policy instruments) and politics? That is, what is their ideological scope, and to what extent are they linked to the policy stream? Up to what point are they adaptable to immediate and diverse political circumstances or, on the other hand, what is their political connotation? Next, it is also necessary to focus more closely on the hypothesis that choices of instruments are signifiers of choices of policies and of the characteristics of these. They can then be seen as tracers, analyzers of changes in policies. The type of instrument used, its properties and the justifications for these choices often seem to us to be more revealing than accounts of motives or later discursive rationalizations. We do not seek to position ourselves as speaking on behalf of a “new” approach or a paradigm that might triumph over anything currently dominant in the public policy field. Rather, we would like to sharpen existing conceptual tools. Nor is our intention normative: we do not seek to identify and promote “better instruments”. The public policy instrument approach is not a functional substitute for other existing approaches, and we do not intend to succumb to marveling at “the whole instrument” in the way characteristic of some of the “new governance” literature (Salamon 2002). Our objective is to examine critically what this perspective can bring to the political sociology of public policy. There is no doubt that focusing on the instruments or their diffusion may run the risk of undermining the political dimensions of public policies.

II. Instrumentation has its own effects

If we look first of all at the specificity of instruments and shed the illusion of their neutrality, we can move beyond these assumptions. Instruments at work are not purely technical: they produce specific effects, independently of their stated objectives (the aims ascribed to them), and they structure public policy according to their own logic. We should then go on to look at the specific dynamic of instrumentation. Public policy instruments are not inert, simply available to sociopolitical mobilizations. They have their own force of action: as they are used, they tend to produce original and sometimes unexpected effects. Three main effects of

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5 This kind of property has already been demonstrated in Desrosières’ works on the statistical tool, showing its active participation in the rationalization of modern states, or in Claude Raffestin’s on the role of cartography in the construction of national identities and narratives (1990). See also James Scott (1998)
Instruments may be noted: inertia effects, a particular representation of the issue at stake, a specific problematization of the issue.

First of all, the instrument creates inertia effects, enabling resistance to outside pressures (such as conflicts of interest between actor-users, or global political changes). In reforms of administration, for example, the introduction or abolition of an authorization procedure or a tax privilege is not merely a question of utility. Instruments constitute a point of inevitable passage and play a part in what Callon has called the stage of “problematization”, which allows heterogeneous actors to come together around issues and agree to work on them jointly. Desrosières has shown how, in the 19th century, the statistical frame of reference was imposed on debates about the social question, even on those who had been at the outset the most virulent critics of this tool: statistics “became almost inevitable points of passage for the supporters of other lines of argument”. But problematization also requires all the actors involved to move from one place to another, to make a detour away from their initial conceptualization.

The instrument also produces a specific representation of the issue it is handling. To quote Desrosières again: “Another method of using statistics in the language of policy can be envisaged. It relies on the idea that the conventions defining objects actually engender realities, since these objects seem to be able to resist all the tribulations thrown at them” (p. 412). This construction of agreed realities is found in the use of other instruments. Thus, regulating an activity by imposing authorization a priori or declaration a posteriori signals recognition that this sphere is clearly subject to “good police” activity, under the supervision of state prescriptions adapted to the risks incurred. Regulation thus draws attention to potential dangers, and generally leads to powers being granted to particular administrative services. This instrument-engendered representation is based on two particular components. Firstly, it offers a framework for describing the social, a categorization of the situation addressed. Desrosières has clearly shown that, during the 18th century, the chief activity of statistics was more taxonomic than quantifying: the ambition to count was preceded by a focus on descriptive categories. Another example is the construction of indexes (of prices, unemployment rates, educational achievement, etc.), which is now a commonplace technique for standardizing information through combining different measures in a form considered to be communicable. However, strong controversies regularly develop around the concept of the index and the methods of calculation that underpin it. The history of indexes and their transformation provides evidence, beyond technical debates, of different positions on how best to capture what is at stake.

Finally, the instrument leads to a particular problematization of the issue, since it hierarchizes variables and can even lead to an explanatory system. Thus, Desrosières recalls that, ever since the days of Adolphe Quetelet (1830), the calculation of averages and the search for regularity have led to systems of causal interpretations that are always presented as scientifically justified. For about twenty years, controversies around the measurement of insecurity through registered delinquency statistics have regularly led to an interpretative model that associates youth, violence against persons, and areas inhabited by immigrant communities. Having been fully accepted by police and judicial actors and political decision makers (and amplified by the media), this interpretative model has proved extremely difficult to move away from.

II.1 Instrumentation as implicit political theorization

Public policy instrumentation reveals a (fairly explicit) theorization of the relationship between the governing and the governed. In this sense, it can be argued that every public policy instrument constitutes a condensed and finalized form of knowledge about social
control and ways of exercising it. Here we can usefully refer to Gaston Bachelard’s felicitous turn of phrase: he viewed technical instruments as “the concretization of a theory”. This avenue of thinking should show that instrumentation raises central questions not only for the understanding of styles (modes) of government but also for the understanding of contemporary changes to public policy (growing experimentation with new instruments, coordination between instruments). Weber too, in his analyses, stressed that administration and its techniques are interdependent with domination. Administration, according to Weber, is the system of practices best adapted to legal rational domination.

In order to clarify the place of instruments in the technologies of government, we propose to differentiate between its various forms and to distinguish five major models. This typology relies partly on the one developed by Hood and based on the resources mobilized by the public authorities (modality, authority, pressure, institution). We have reformulated and supplemented it, taking into account types of political relations organized by instruments and the types of legitimacy that such relations presuppose.

Table 1: Typology of Instruments

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<td>Legislative and regulatory</td>
<td>Social guardian state</td>
<td>Imposition of a general interest by mandated elected representatives</td>
</tr>
<tr>
<td>Economic and fiscal</td>
<td>Wealth producer state,</td>
<td>Seeks benefit to the community</td>
</tr>
<tr>
<td></td>
<td>and redistributive state</td>
<td>Social and economic efficiency</td>
</tr>
<tr>
<td>Agreement-based and incentive-based</td>
<td>Mobilizing state</td>
<td>Seeks direct involvement</td>
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<tr>
<td>Information-based and communication-based</td>
<td>Audience democracy</td>
<td>Explanation of decisions and accountability of actors</td>
</tr>
<tr>
<td>De facto and de jure standards</td>
<td>Adjustments within civil society</td>
<td>Mixed: scientific/technical, democratically negotiated and/or competition, pressure of market mechanisms</td>
</tr>
<tr>
<td>Best practices</td>
<td>Competitive mechanisms</td>
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Legislative and regulatory instruments are tools that borrow from the routinized legal forms constituting the archetype of state interventionism. However, the latter is not homogeneous, and much of the literature of the sociology of law has shown that this type of regulatory instrument includes three fairly clearly articulated dimensions. First of all, legislative and regulatory instruments exercise a symbolic function, since they are an attribute of legitimate power and draw their strength from their observance of the decision-making procedure that precedes them. Beyond this eminent manifestation of legitimate power, legislative and regulatory measures also have an axiological function: they set out the values and interests protected by the state. Finally, they fulfil a pragmatic function, in directing social behaviors and organizing supervisory systems. These three functions are combined in different proportions, and there are very many examples of situations in which the symbolic dimension prevails over the organization of methods of action. But sending out these political signals is part of a general pedagogical thrust, combining the need to demonstrate will with the need to frame activities.
Economic and fiscal instruments are close to legislative and regulatory instruments, since they follow the same route, deriving their force and their legitimacy from having been developed on a legal basis. However, they are perceived in terms of their economic and social efficiency. Their peculiar feature is that they use monetary techniques and tools, either to levy resources intended to be redistributed (taxes, fees) or to direct the behaviors of actors (through subsidies or allowing deduction of expenses). This type of instrument must also be situated in relation to particular concepts of the state, which may be shown through types of taxation (wealth tax; tax earmarked for social purposes; the system of taxing financial products) or through the use of techniques such as deficit reduction or European convergence indicators.

For ease, the three other types of instrument can be referred to under the heading of “new public policy instruments”. They have in common the fact that they offer less interventionist forms of public regulation, taking into account the recurrent criticisms directed at instruments of the “command and control” type. In this sense, they lend themselves to organizing a different kind of political relations, based on communication and consultation, and they help to renew the foundations of legitimacy. We shall end by presenting a few observations about these three categories – instruments based on agreement, instruments based on information, and de facto standards.

“Govern by contract” has become a general injunction nowadays, as if the use of such instruments meant a priori choosing a just and valid approach. In fact, the use of this type of instrument can be justified on two levels. Firstly, this mode of intervention has become generalized in a context strongly critical of bureaucracy – of its cumbersome yet abstract nature, and of the way it reduces accountability. Further criticism has related to the rigidity of legislative and regulatory rules and to the fact that their universality leads to impasse. In societies with growing mobility, motivated by sectors and subsectors in search of permanent normative autonomy, only participatory instruments are supposed to be able to provide adequate modes of regulation. A framework of agreements, with the incentive forms linked to it, presupposes a state in retreat from its traditional functions, renouncing its power of constraint and becoming involved in modes of ostensibly contractual exchange (Lascoumes and Valluy 1996). Ostensibly, because the central questions of autonomy of wills, of reciprocity of benefits, and of sanction for non-observance of undertakings are rarely taken into account. The interventionist state is therefore supposed to be giving way to a state that is prime mover or coordinator, non-interventionist and principally mobilizing, integrating and bringing into coherence. The little research conducted in this area concurs in the view that this type of instrument’s chief legitimacy derives more from the modernist and, above all, liberal image of public policy, of which it is the bearer, than from its real effectiveness, which is in fact rarely evaluated (Gaudin 1999).

Communication-based and information-based: these instruments form part of the development of what is generally called “audience democracy” or “democracy of opinion” – that is, a relatively autonomous public space in the political sphere traditionally based on representation. There has been a decisive change since the 1970s, in the form of a reversal: citizens’ rights of access to information held by the public authority have been developed into obligations on the public authorities to inform citizens (‘mandatory disclosure’) (Barbach and Kagan 1992). In addition, in the growing use of information and communication instruments that correspond to situations in which information or communication obligations have been instituted, there is a particular concept of the political.

De jure and de facto standards: these organize specific power relations within civil society between economic actors (competition-merger) and between economic actors and NGOs (consumers, environmentalists, etc.). They are based on a mixed legitimacy that combines a
scientific and technical rationality, helping to neutralize their political significance, with a
democratic rationality based on their negotiated development and the cooperative approaches
that they foster. They may also allow the imposition of objectives and competition
mechanisms and exercise strong coercion.

An instrument-focused approach is significant because it can supplement the classic views
that focus on organization or on the interplay of actors and representations, which nowadays
largely dominate public policy analysis. It enables different questions to be asked, and the
traditional questions to be integrated in new way. This issue of *Governance* tackles this set of
problems, beginning with Hood’s article. He picks up again from his original 1982 work,
scans the literature and reviews proposed typologies of instruments.

**III. Instruments for conceiving change in public policies or changing instruments to avoid political changes**

Over the past three decades questions of the governability and governance of contemporary
societies have been raised in different settings. States are parties to multinational regional
logics of institutionalization (for instance the EU), to diverse and contradictory globalization
processes, to the escape of some social groups and to economic flows, to the formation of
transnational actors partly beyond the boundaries and injunctions of governments. Within the
EU, for instance, the state no longer mints coins, no longer makes war on its neighbor; it has
accepted the free movement of goods and people, and a central bank… Enterprises, social
mobilizations and diverse actors all have differing capacities for access to public goods or
political resources beyond the state – the capacities for organization and resistance that, in the
1970s, brought out the theme of the ungovernability of complex societies (Linders and Peters
1990; Mayntz 1993). This literature has reintroduced the issue of instruments, through
questions about the management and governance of public subsystems of societies and policy

In other words in addition to the question of who governs democracies – as well as who
guides, who directs society, who organizes the debate about collective aims – there is now the
question of how to govern increasingly differentiated societies. Jean Leca’s definition of
government (1995) differentiates between rules (the constitution), organs of government,
processes of aggregation and direction, and the results of action. “Governing means taking
decisions, resolving conflicts, producing public goods, coordinating private behaviors,
regulating markets, organizing elections, extracting resources, allocating spending” (Jean
Leca, quoted by Pierre Favre 2003).

Innovations in policy instruments are also related to what is sometimes called “a second age
of democracy”, when the definition of the common good is no longer the sole monopoly of
legitimate governments. This perspective has already been amply covered by Bernard Manin
in his work analyzing “audience democracy”. In his view, political supply is increasingly
linked to audience demand, which is all the more important because there is a “freedom of
public opinion” that is increasingly autonomous of traditional partisan cleavages. Public
information is thus becoming a significant stake, allowing demand and “the terms of choice”
to be directed: the pairing of “the right to information” with “the obligation to inform”
appears to be a new “arcanum of power” (Lascoumes 1998). Power has long been exercised

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6 “the metaphor of stage and audience … expresses nothing more than the ideas of distinction and independ-
ence between those who propose the terms of choice and those who make the choice.” (Manin 1997, 226).

7 Ibidem, 228-31.
through the collection and centralization of the information that guides political decision making, but it remains a good retained by the public authorities. The next step, which came with the development of welfare states and, above all, with the intense interventionism that accompanied this, was that neocorporatism and the growing interpenetration of public and private spaces necessitated an easing of relations between the governing and the governed. Under cover of ‘modernization’ and ‘participation’, new instruments were proposed that would ensure public management functioned better, by increasingly subjectivizing political relations and recognizing that citizens could claim “second-generation human rights” from the state. A new relationship was established between the right to political expression and the right to information. After organizing rights of access that required the citizen to play an active role, the state then set up various obligations to provide information (‘information required’ or ‘mandatory disclosure’) (Barbach and Kagan 1992), which put an onus on the person who possesses the information, whether public (e.g. risks of natural catastrophe) or private (e.g. the pharmaceutical industry). This has a twofold objective: on the one hand, to ensure that the public is informed of risk situations; on the other, to exercise normative pressure to frame better practices on the person who has to give the information. More broadly, Giandomenico Majone, in his study of new forms of regulation (1997), takes the view that European agencies are increasingly tending to replace regulatory “command and control” forms of regulation with a form of regulation by information – one that privileges persuasion. These policies of continuous production and dissemination of information have both constitutive and instrumental functions in their sphere of competence. They act on three levels: programming and constructing national agendas, orienting methods and objectives and, finally, creating sensitivity to forecasting by validating aims other than those that are already routinized.

The creation of a public policy instrument may serve to reveal a more profound change in public policy – in its meaning, in its cognitive and normative framework, and in its results. Writers of the various neoinstitutionalist persuasions have all turned towards highlighting institutional reasons for obstacles to change and tendencies towards inertia. Peter Hall first revived the question of public policy change when he identified different dimensions of change in this area, differentiating between reform objectives, instruments and their use or their parameters: this led him to hierarchize three orders of public policy change (Hall 1986, 1993). Thus, he situated instruments at the heart of his analysis of public policy change. This idea was taken up by Bruno Jobert (1994), for whom public policy change comes about more through formulas than by pursuing a set of major aims. Bruno Palier (2002) developed this framework when he contrasted the apparent resistance of the welfare state in France with the continuous change of instruments (minimum income, tax earmarked for social purposes, universal sickness cover, tax credits), which gives a totally different image of the dynamics of change (Palier 2000). In other words, change may come about through instruments or techniques, without agreement on the aims or principles of reform. Thus, Palier notes that analysis through instruments may be used as a marker to analyze change, since it is possible to envisage all the possible combinations – for example, change of instruments without change of aims, modification of the use or degree of use of existing instruments, change in objectives through change of instrument, or change of instrument that modifies objectives and results and so gradually leads to change in objectives. Stressing policy instruments is yet another way of criticizing the “heroic” view of policy changes often put forward by the actors.

Disconnecting policy instruments from political goals is crucial to the analysis of policy changes. Our hypothesis here is that the revival of these questions on public policy instrumentation may relate to the fact that actors find it easier to reach agreement on methods than goals – although what are instruments for some groups might be goals for others.
Debates about instruments may offer a means of structuring a space for short-term exchanges, for negotiations and agreements, leaving aside the most problematic issues. The search for new policy instruments also often takes place when other stronger mechanisms of coordination have failed. The case of the rise (and fall?) of the “Open Method of Coordination” in the EU provides a good illustration. Is the proliferation of instruments also a way of dissipating the political questions? This suspicion is obviously based on the criticism of public policy formularies developed in the most neoliberal version of “new public management”. Our next hypothesis is that the importation and use of a whole series of public policy instruments is determined by the fact that the state is restructuring, moving towards becoming a regulatory state and/or influenced by neoliberal ideas. “New public management”, in a simplified version, is expressed through the application to public management of the rational choice principle and of classic microeconomics, and sometimes more directly through transferring private management formulas to public management. This leads, among other things, to a fragmentation of public policy instruments, to growing specialization and strong competition between different types of instruments (judged by the measure of a cost/efficiency relationship) and to strong moves in favor of instruments that are more incentive-based than classically normative. This dynamic is particularly useful for analyzing the processes by which public policy instruments are delegitimized as they fall into disuse or are abolished in the name of a different rationality, of modernity or of efficiency. For government élites, the debate on instruments may be a useful smokescreen to hide less respectable objectives, to depoliticize fundamentally political issues, to create a minimum consensus on reform by relying on the apparent neutrality of instruments presented as modern, whose actual effects are felt permanently.

Within that context, the process of “naturalization” or neutralization of policy instruments is one of the most intriguing questions for public policy analysts, and requires a focus on power and interests. But a policy instrument is not a given, and it may face delegitimation over time – again, an interesting process to analyse. The whole point of focussing on policy instruments is also to make visible some of the invisible – hence depoliticized – dimensions of public policies. It also relates to the search for either invisible instruments or policy triggers (Weaver 1989) with automatic impacts.

We therefore argue that we need to look at the long term political careers of policy instruments, to analyse the debates surrounding their creation and introduction, the ways they were modified, the controversies.

The contribution put forward in this special issue derives from empirical research project on public policy instruments and policy change. All of them illuminate one or two key aspects of the framework we have put forward. There were chosen because they exemplify the added value of the “instrument approach” to analyse policy changes. The cases we present do not represent a broader set of cases in any kind of way. All of them, based upon original research project have used the political sociology of public policy instruments to analyse cases of policy change. Palier on welfare state reforms and Bezes of wage cutting within the administration present research done in France but they analyse their case within a broader comparative European context. Borraz on norms and standards analyse both the EU case and the French case in the same paper, an original comparison which makes it easier to generalize. King’s paper is on the anti discrimination instruments in the US. There is no attempt either to repre-

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sent a particular national type of regulation or public policy which would differ from one country to the next.

Can we generalize from that set of papers? Not yet for obvious methodological reasons. This is precisely the reason why we try to get more systematic results out of a new set of case studies and systematic analyses of policy sectors over time. However, for the time being, results of the four case studies we present here are consistent with the rest of our work.

Policy instruments are very effective indicator to understand and trace policy change over time. In other words, the policy instrument/instrumentation approach points to a stronger focus on the procedural concept of policy, centering on the idea of establishing policy instruments that enable the actors involved to take responsibility for defining policy objectives. In a political context where ideological vagueness seems to prevail – or, at least, ideology is less visible – and where differentiation between discourses and programs is proving more and more difficult, the view can be taken that it is now through public policy instruments that shared representations stabilize around social issues. And we can apply to the system of instrumentation what Desrosières says about statistics, when he expresses the view that they structure the public space by imposing categorizations and preformating debates that are often difficult to bring into the discussion: “They give us a scale to measure the levels at which it is possible to debate the objects we need to work on”\(^9\).

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The Hidden Politics of Administrative Reform: Cutting French Civil Service Wages With a Low-Profile Instrument

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A classic primary approach to the study of administrative reforms consists of looking at the historical and collective processes of agenda setting, negotiation and institutionalization of constituent public policies. Most studies in public administration have favored the analysis of public management reforms (for instance, Olsen and Peters; Pollitt and Bouckaert; Christensen and Lægreid) i.e. of active and public policy changes in bureaucracies. These dominant approaches have focused on administrative reform decisions that claim to transform the formal structures and rules of administrative systems and have mostly looked at what reformers have set up in terms of explicit programs. However heuristic this method may be, it nevertheless does not exhaust thinking on the various institutional changes that have affected bureaucracies for four decades. Although often considering the scope and limits of administrative reform policies, these perspectives have downplayed other strategies through which governmental actors did not build comprehensive reform plans but still tried to regulate the administrative system and change it by other means. As illustrated in much of the neo-institutionalist literature on welfare state reforms and retrenchment policies, notions such as path-dependence, drifts, conversion or layering are now beginning to offer a wide range of nuanced mechanisms for the examination of how institutions are reproduced and changed at ground level by following diverse, complex roads (Pierson 1994; Thelen; Hacker).

This article addresses those internal changes in bureaucracies and focuses on the introduction and use of policy instruments as institutional change without radical or explicit shifts in the administrative system. Indeed, the tactics of government often rely on instruments – i.e. on the use of limited, goal-oriented and highly technical devices that have important policy and institutional consequences but are not widely publicized, allowing institutional arrangements to remain apparently unchanged. Complex administrative issues such as devolution, budgetary reform, personnel policy or cutbacks in staff or in civil service wages often rely on diverse technical decisions and tools. Beneath explicit administrative reforms, studying the everyday forms of “governing the bureaucracy” basically involves looking at concrete devices which aim to collect large amounts of information, to measure (people, credits, expenditure or even performance) and then to set up categories to organise administrative activities and distribute power, responsibilities and money. This broad technical field of “instruments to regulate bureaucracy” (frames, rates, ratios, indicators, cells, etc.) merits some interest because of the cognitive and political stakes involved and because instruments constitute an important mode of power.

In this paper, I address a very specific kind of policy instrument, which I label “low-profile instruments”, and which, in addition to being a technical, goal-oriented method, characteristically have a discreet dimension, so that their visibility to external actors is low, as a result of their highly complex measurement purposes and automatic use. These two properties make low-profile instruments costly to understand and to manipulate. They also create strong asymmetries between the top bureaucrats who develop them as part of their own expertise and the other actors who suffer from their implementation. We may observe their use in three different kinds of situation: i) when the issues at stake remain highly ambiguous or conflictual because of uncertain knowledge about what to do (here, low-profile instruments are used to provide new strategic information and to rationalize a process); ii) when the political context does not facilitate structural administrative reform because of high political costs (the use of low-profile instruments here will technicalize and depoliticize an issue); iii) when the strongly embedded nature of administrative structures makes them highly resistant to change (low-profile instruments are used as a policy alternative, to foster new policy aims by introducing new methods).
The core case study of this article offers, by way of example, an historical sociology of a technique used to calculate the French civil service wage bill since the mid-1960s: the RMS (raisonnement en masse salariale). I focus on the origins, uses and institutionalization of this method, which measures growth in civil service wages using a calculation based on the overall wage bill. Of course, the budgetary issues linked to payment of wages in the French civil service have always been highly significant. Because of the large number of state employees (2.5 million in the state civil service in 1981 and 2,270,000 in 2002), wages form a very major part of the state’s budget: wages and pensions represented about 35.9% of the State Budget in 1975 and an estimated 40.7% in 2002. These outlays play a strategic role in two different mechanisms, so measuring and controlling them represent high stakes. Firstly, the civil service has long served as a reference point in determining wage rises in public enterprises and in the private sector. Curbing wage rises in the civil service was therefore crucial for achieving the deflationary objectives of post-1975 governments. Secondly, the internal structural arrangements of the French civil service (a system organized around the corps – about 1,700 groupings of officials with the same conditions of service, each of which has its own particular methods of internal management and promotion – and the principle of separation between rank and job) have, historically, promoted inflationary mechanisms because of the wage comparisons and adjustments practiced between the corps and categories of personnel. Thus, since the mid-1960s – but more intensively since the 1982 crisis – governments have all wanted to take action on wage expenditure in the civil service, while simultaneously seeking to limit the negative effects of unpopular cuts for a large number of public employees, who were also voters.

In successive sections, the article examines the different uses of this instrument in four configurations, in order to highlight complementary dimensions of low-profile instruments as they apply to administrative states. Invented during the 1960s, in a Keynesian context, as an instrument for providing an objective consensual tool for wage negotiations with public-sector unions, in the 1970s the RMS was transformed into a low-profile instrument at the service of the Budget Directorate. This culminated in its role in repeated attempts to monitor and reduce civil service wages expenditure in the context of the French policy of economic stringency from 1982 to 1988. Although strongly questioned during the 1990s for its limitations or its negative side-effects on the French Civil Service, the RMS is still used as an instrument today, but has been supplemented by other initiatives. It was also to some extent reborn in the context of the Institutional Act on Finance Legislation, adopted on 1 August 2001, which institutionalized the use of the global wage bill method for measuring, calculating and fixing salaries for public-sector managers. In the final section of the article, I will address three questions through consideration of the empirical case. First, the design of a highly technical instrument can be seen as related to the concern to provide new expert knowledge about public-sector salaries; the importance of this concrete dimension of administrative changes will be discussed. Second, I will argue that measurement of civil service wages is not merely a knowledge-oriented issue. Both senior bureaucrats and politicians have decided to use it as a low-profile means of reducing public expenditure. I will examine the importance of this politicized use of an instrument in the process of government, where policymakers value the benefits of relying on invisible devices in making unpopular decisions on cuts. Thirdly, this case study allows us to gain a more general understanding of retrenchment policy on bureaucracies in instances, such as France, where initiatives have not primarily radically targeted drastic reforms at the explicit rules of the administrative system. This work forms part of a research agenda with stronger interests in complex paths of institutional transformation than are usually recognised in studies of change in public administration.
I. The Keynesian context: inventing an instrument to calculate the French civil service wage bill

I.1 Investigation of state wages is brought into focus

The investigation of civil service wages in the 1960s does not emerge as an obvious and immediately legitimate focus for questioning. In fact, it resulted from three simultaneous dynamics, through which administration and the wages of state employees became, in a gradual and fragmented way, the object of investigations and debates.

As debates about the rationality of the state’s administrative apparatus proliferated, reflexive questioning on the “cost” of the civil service became an intrinsic part of the general context of the 1960s (Bezes 2003). The signing of the Treaty of Rome in 1957, the opening up of the French economy to international competition, and the intensified development of the national welfare state via the extension of economic planning from the 4th Plan (1962-1965) onwards all promoted an increasing number of questions about the optimal, rational nature of state interventions and investments. In this context, three intraministerial centralist institutions – namely, the Commissariat général au plan (the National Planning Commission), the Service d’études économiques et financières (SEEF – the Economic and Financial Studies Service), which took over forecasting in 1965, and the Budget Directorate – sought knowledge and instruments likely to help them better evaluate and monitor changes in the administrative state. Both the use of macroeconomic modeling instruments and the concern to rationalize public choices and administrative functioning through the development of microeconomic (cost-benefit) techniques formed an integral part of this context1.

The particular attention given to public-sector wages in terms of “overall cost” then resulted in more specific questions, which in turn led to wages and wage movements becoming an object of investigation and a regulatory issue. In 1961-2, the Budget Directorate (and, indirectly, the Civil Service Ministry) observed inflationary cascade effects on the indexed and statutory wage structure of the French civil service. In particular, in that year, following indexing modifications for teaching personnel, a large number of other categories of staff, whose conditions were in line with theirs, obtained upratings of their salary scales after claiming for equal treatment. This general increase led to the perception of anomalies in the growth in wages in the early 1960s, between the indexed increase and the real amount of growth in wages expenditure, as noted by the Budget Directorate. The general annual increases granted were lower than the variations in the overall wages bill – that is, in the amount of wages actually paid. From this period onwards, therefore, the Budget Directorate began to seek instruments that would allow it to refine its methods of calculating Civil Service wage increases and to retain, however precariously, control of the game.

Finally, interest in the issue of Civil Service wages also stemmed from debates in the first half of the 1960s about the creation of a Keynesian-inspired incomes policy, in French society generally and – though here more restrained – in the public sector. In the context of debates about the 4th Plan (1962-5), two institutions were lobbying at the same time, but for different reasons, for a national incomes policy (Hayward; Boissonnat). The Conseil économique et social (Economic and Social Council), on the one hand, echoed the interest groups represented within it (farmers and wage earners) in defending the idea of an income redistribution policy intended to combat inequalities within the French population. The Commissariat géné-

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1 These are the initiatives that gave rise to the Rationalisation des Choix Budgétaires (RCB), the French version of the US Planning, Programming and Budgeting System (PPBS).
néral au Plan, on the other hand, was arguing in the same direction because it wanted to develop a social incomes policy within the perspective of the 5th Plan, with two objectives in mind. A social incomes policy would first be intended to moderate wage inflation and make it more predictable, by establishing mechanisms to track changes in wage structures. It would also aim to redress income disparities, notably in favor of disadvantaged groups (old people, families with a lot of children, minimum wage earners, agricultural workers, repatriated people, etc.). Several initiatives (creation of a Statistics and Incomes Group, Conference on Incomes Policy, many reports) provide evidence that this topic was on the government’s agenda in the early 1960s. Although it went on to fail (Hayward), the creation of this public policy on incomes in the mid-1960s was closely linked to the economic planning ideal and to the Keynesian economic framework.

In this context, one of the major stakes in making wage discussions credible was to perfect instruments to enable the planning and tracking of “growth in the wages bill, broken down into its main elements: growth in the number of wage-earners, changes in working hours, movements in wages owing to continuing improvements in qualifications, movement in the organizational hierarchy” (Gruson, 556) – in other words, to ensure the most precise possible tracking of wage developments in French society. The debates related especially to the inflationary effects of wage increases, likely to occur in three distinct areas: the Civil Service proper, public enterprises and private enterprises. The stakes were raised in particular by advances in public-sector pay following a coalminers’ strike in the nationalized sector in March 1963. These conflicts to some extent refocused thinking on the case of the public sector. In October 1963, in reaction to the coal dispute and following the Massé Task Force, Jean Toutée, Councilor of State and Chairman of the Finance Section of the Council of State, was asked by Prime Minister Pompidou to produce a report on restoring dialogue between the public-sector trade unions and government, and, more specifically, on public-sector wage negotiation procedures (Task Force on the Improvement of Public Sector Wages Discussion Procedures, the Toutée Report 1964)\(^2\). This was the institutional framework in which questions were raised, in relation to public enterprises, not only about the forms taken by negotiations between trade unions and government, but also about the content of discussions and what was at stake in them (Salon, 417-418). In order to negotiate, it was necessary to be able to determine precisely the amounts of wages paid (that is, of the total wages bill) and the degree of interdependence between the public sector and the civil service, as well as any knock-on effects.

I.2 The invention of the RMS: genesis of a learning instrument

In fact, the Toutée Task Force (in which the chairman was joined by two other members of the Council of State) proposed recommendations in three essential areas. Firstly, the Task Force advocated a rationalization of the wage-negotiation procedure in public enterprises. Secondly, enterprises were invited to develop forms of short-term or “progress contracts” with trade unions, guaranteeing wage commitments over a given period in exchange for a non-strike agreement. Thirdly, and above all, the Toutée Task Force stressed the need to stabilize negotiations on the basis of statistical wages data, which should be precise, reliable and accepted by all. One section of the report was devoted to “wage studies” and to the crucial issue of the credibility of calculations (Task Force on the Improvement of Public Sector Wages Discussion Procedures, 7). The aim was to establish less questionable bases for wage

\(^2\) The public sector enterprises covered in the report are limited to four: the railways (S.N.C.F.), Electricité et Gaz de France, coalmining (Charbonnages de France) and Parisian transport (R.A.T.P.).
negotiation through the creation of a new technical instrument for measuring wage outlays in public enterprises – one which would enable the whole “wage bill” to be taken into account. The Task Force thus revisited the old, formal way of looking at “wages”: instead of looking at just basic pay and general increases, it proposed adding the different category increases peculiar to a corps or a group within the enterprise (creation or increase of allowances, reclassification of some categories, improvements in conditions for promotion, changes in the qualifications for some jobs) that increase the overall wages bill. It also suggested adding the “automatic” wage increases linked to career advancement through length of service and changes in the technical expertise needed for jobs. As public sector employees advance in their careers through length of service, their pay increases automatically, without any decision to increase wages being taken. To assess the wage bill exactly from one year to the next also supposes that two comparable things are being compared: therefore, it is necessary to determine the wage bill on the basis of unchanged seniority and technical expertise as well as according to the number of permanent staff, taking into account the impact on wages of retirement quits (of those on high wages) and of hiring new employees (on low wages at the bottom of the scale).

Thus, the Toutée Report was characterized by the first fairly systematic formalization of the various components of the “total wage bill” into what is known as the *raisonnement en masse salariale* (RMS), which came to substitute for a calculation based on level or year-on-year figures. The cognitive instrument “RMS” was invented and designed to alter the terms of wage negotiations between the state and representatives of public-sector employees. From May/June 1964, the Prime Minister’s advisers, including representatives of public-sector management and senior civil servants from the Ministries of Finance, Public Works, Industry and the Civil Service, met to tackle the issue of how to transpose the measures envisaged into the context of the civil service (Salon, 419).

### I.3 A new instrument with a new conception of civil service wages policy?

Several factors show that this was indeed a new way of calculating – a new way of thinking about administration, with a critical perspective on the civil service. First of all, taking into account three components to measure the overall annual civil service wage bill (general increases, category increases and the effects of automatic growth of the wage bill by taking into account promotion by seniority and changes in technical expertise requirements) represented a total challenge to the previous method of calculating personnel expenditure, which was based on the level of pay, looking only at official index and wage increases – the general increases – at a given time, t. Secondly, the RMS completely altered the philosophy behind measurement of wage growth in the French civil service. Specifically, it considerably reduced the part played by general increases. Category increases, variations in workforce numbers (the creation of new jobs), pay rises according to length of service (the wage bill increases as the workforce ages) or hiring new skills (the wage bill increases if more highly qualified, and therefore more highly paid, people are recruited) automatically increase the overall wage bill. These components are viewed as benefits “really” granted to the staff: therefore the RMS method takes the view that automatic increases in the wage bill should be added to any rises granted by government. This new instrument therefore devalued and delegitimized the importance of general wage negotiations between the state and the civil service trade unions. Lastly, the findings of the Toutée Report, like those of the 1963 Massé Report (Massé *et al*) and the Incomes Policy Conference, pointed out the dangers of the knock-on effects between wage increases in the civil service, the public sector and the private sector in the context of

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3 This automatic effect will be referred to as “GVT” (*Glissement Vieillesse Technicité*).
the early stages of a counterinflationary policy. The issue of “parity” between sectors became a major preoccupation, since there was a risk of causing inflationary adjustments. This was a challenge to the basic mechanism of double indexation, a union-sponsored clause in the Law of 3 April 1955, which “invited” the government to ensure harmonization and adjustment of status and pay between the state civil service and public enterprises in the nationalized sector (where pay was itself indexed to prices). This link between nationalized industries and the civil service proper created a dependence that tied the hands of government and favored the arguments and claims of the civil service trade unions. In 1963, in the context of the overheating economy of the early 1960s, this linkage was viewed as a problem by the Pompidou Government, although it could not really be challenged then because the measure was unpopular (Hayward).

In the mid-1960s, these new recommendations for calculating the wage bill were as yet only proposals. In September 1964, Prime Minister Pompidou tried to use the Toutée procedures in public enterprises and to extend them to civil service negotiations, on the advice of the Budget Directorate, but immediately encountered the hostility of the trade unions, culminating in a general strike in December 1964. The major issues at stake were to acquire objective knowledge – to show the scientific, useful nature of calculations based on the wage bill – and to establish its credibility. This meant establishing the legitimacy of an instrument initially thought of as a learning instrument, supposed to be able to reveal the truth about wages in the state civil service and the public sector.

However, the RMS also represented a shift in the significance of wages control that was not free of ambiguity. The initial orientation was Keynesian: through its idea of an “incomes policy” and its aim of forecasting and being able to calculate the wage behavior of the agent “state”, it reaffirmed the Keynesian ideal of overall, interdependent economic approaches in the context of extending economic planning and macroeconomic perspectives. The RMS was designed as the instrument of a policy of consultation between government and trade unions, linked to economic planning and intended to “frame” and reduce inflationary logics while defending the idea of the autonomy of public enterprises. However, calculating the wage bill in this way was also a microeconomic exercise, perceived by some as an amendment to Keynesianism but by others as evidence of the emergence of another economic – neoclassical or neoliberal – paradigm within a Keynesian framework. This suggests the idea that a Keynesian macroeconomy and a liberal microeconomy coexisted during the 1960s (Favereau). From the 1960s onwards, administrative and political elites started to consider that the contemporary exercise of state government should now involve the implementation of an economy within its civil service – that is, a scientific approach to knowledge about numbers, costs and growth of the administrative workforce.

Throughout the 1960s, the development of the RMS was therefore structured by three distinct and contradictory objectives: it was an invented learning instrument, intended to assess precisely a previously uncertain aggregate (the pay of public employees); yet it was also envisaged as an instrument of embryonic free-market policy, since it was linked to anti-inflationary objectives by its function in moderating public sector pay rises; finally, it was an instrument of social dialogue, since it was supposed to provide credibility and statistical bases for procedures of consultation and negotiation between government and trade unions. Although it was already beginning to be mobilized by the public authorities to evaluate wages growth (and

4 In 1964, the trade unions complained about this attempt to impose uniform wage rises both on public enterprises and on the civil service (Hayward, 187).
particularly by the Budget Directorate for the civil service) and to assess developments, it was not used in negotiations and was clearly rejected by trade union actors.

II. From the late 1960s to the early 1980s: learning instrument transformed into low-profile wage control instrument

The changes made to the instrument and its uses from the late 1960s to the 1970s relate to the way in which the three objectives that initially defined it evolved. During the period 1966 to 1976, the significant factor was the repeated failure of numerous attempts to implement a true incomes policy. Although the function of the RMS as a learning instrument was never called into question, the contrasting failures of its other use — in the service of social dialogue — to some extent “forced it back” into the role of a discretionary, asymmetrical budgeting instrument, used only by the Budget Directorate. This appropriation by the Budget Directorate, in the context of the economic crisis of the 1970s, exacerbated conflicts with the civil service trade unions around the credibility of the RMS as instrument.

II.1 The failures of incomes policy and its effects: the changing use of an instrument

From the mid-1960s onwards, incomes policy was contested and rejected by the public sector trade unions. The economic recession in 1965, the maintenance of the Stabilization Plan, which constrained prices and wages, and increasing pay disparities all fed the hostility of trade unions, which saw incomes policy as an instrument of the “wages police”. From 1966 to 1968, the Civil Service trade unions were no longer associated with a policy of social dialogue. The May-June 1968 negotiations, followed by the arrival in office of Prime Minister Jacques Chaban-Delmas in 1969, brought about a renewal of collective bargaining and incomes policy, but this did not last. A visible manifestation was the first wage agreement in the civil service, concluded in 1970 in the form of a “joint statement”, i.e. a text not formally signed by the parties. This inauguration of wage agreements between the state and the Civil Service trade unions led to a practice that still exists in 2004. This renewed relationship was, however, of little significance: in July 1972, the fall of Jacques Chaban-Delmas spelled the end for the policy of social dialogue in its institutional form.

With the failure of incomes policy, the RMS lost for good its initial “democratic” justification – that is, to be a credible learning instrument, accepted in negotiations. The failure of the public policy that had carried it forward reduced it to a mere method of calculation, facilitating the construction of economic and budgetary data and confined solely to use by the Budget Directorate. In the mid-1970s, the stated use of the RMS changed its meaning. Such calculations were established above all as a highly useful instrument for discovering the wage outlays of the state, at the discretion of the government and the Budget Directorate, which had been in command of creating them. In fact, these institutional actors fixed the terms of wage negotiations with the civil service trade unions; and the RMS, with its aura of statistics and its starting-point in stating the “objective” amount of growth in the wage bill, enabled them to justify their choices. The RMS gradually became a strategic instrument for budgetary management of administration, at the discretion of the public authorities, which used it unilaterally. From the 1970s onwards, the trade unions, placed in a dilemma, viewed it as illegitimate. They had to do their best to gain technical mastery of the pay calculations carried out, but at the same time they complained about an instrument whose use was not subject to any consultation. From this point of view, the economic crisis of the 1970s only accentuated the asymmetry and division between trade unions and public authorities.
II.2 The economic crisis of the 1970s: the RMS becomes a low-profile instrument at the service of the Budget Directorate

In 1975, the appearance of a budget deficit for the consolidated accounts of the public administrations (state, social security and local authorities), as well as for the state itself, represented a fundamental challenge to forms of public policy and to the beliefs that attached to it. The economic policy put forward by Prime Minister Raymond Barre in September 1976 broke with Keynesianism and set monetarist-inspired objectives: an anti-inflation policy (which became a priority and the first stage in an anti-unemployment strategy), decontrol of prices, a policy to promote the strong franc in the context of the EMS, and restriction in the growth of the money supply. With the new objectives of maintaining the balance of public accounts, state outlays constituted the object of numerous examinations, in which spending on staff (wages and pensions) was an essential element. The fact that these outlays represented a high and growing share of the State Budget was denounced, as was the fact that they could not be easily reduced. From 1972 onwards, they grew constantly, from 34.4% of the State Budget to 38.9% in 1976\(^5\). From 1976, wages expenditure became an object of budgetary intervention for the Budget Directorate.

Thus, the economic crisis of the 1970s made the RMS a central instrument in any budgetary action on administration. There were two major reasons for intensification of its use. The first was that this form of calculation lay at the heart of the Barre Government’s objectives. From 1976, the Government’s strategy was to moderate wage increases with the help of a policy known as “gradualism”, intended to gradually diminish inflationary trends. It was based on decremental rates of price and wage increases, and was applied particularly to the civil service. The Government’s stated objective was to restrict the degree to which purchasing power for public employees would be maintained through the guarantee of the state’s wage bill growing at the same rate as GDP. Publicly-acknowledged reference figures (prices, GDP, wages) thus became significant stakes in the game, and were often “massaged” downwards by government in order to minimize rising claims, even if this meant later facing demands for readjustment. In this context, fixing the rate of public sector wage increases and, more specifically still, fixing the annual increase in the wage bill, were crucial issues in financial management of the French economy. From 1978 to 1981, the Budget Director placed preventing unexpected excess and moderating wages in the civil service at the heart of his objectives, because of the driver effects this would have on the private sector. The second reason that led to more intensive use of the RMS relates to the political situation of the Barre Government. From 1976 to 1981, its actions were politically constrained, notably in its interventions in administration. The electoral context was not very favorable to radical public policies. The meager partisan resources of President Valery Giscard d’Estaing’s party, the Républicains Indépendants, the demanding conditions of political competition after 1974 (numerous elections: district in 1976; municipal in 1977, largely won by the Left; a general election in 1978; European elections in 1979) and internal divisions in the right-wing majority (particularly in Parliament, where they were deepened by the creation of a new Gaullist party, the Rassemblement pour la République, RPR) led to the prevalence of consensual measures from 1977 to 1981 and to avoidance of any measures that would clearly bring the majority camps into conflict. Significantly, from 1976, economic policies (the Plans Barre) remained moderate in their monetary objectives (Cohen et al 1982)\(^6\). In this configuration, the political actors did

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\(^6\) The numerical data relating to growth in public spending and especially to debt reveal a less unfavorable situation in France than in a good number of other countries at the same period – a factor that cannot have encouraged the government to implement or publicize drastic budgetary policies.
not seek to propose structural reforms in administration nor to publicize a restrictive policy towards civil servants. On the contrary, they wanted to minimize the visibility of cuts in the wages of state employees (Pierson 1994) in order to develop a blame-avoidance strategy (Weaver 1986).

In this context, the RMS represented an ideal low-profile instrument for use in budgetary control of staffing costs. It offered privileged information for calculating growth in the annual amount of state wages expenditure and allowed influence over the content of wage negotiations with the Civil Service trade unions. In wage negotiations, the Budget Directorate relied on the technical nature and complexity of the instrument to claim that the figures it provided were objective and to impose them on the other actors. The method of calculation – complicated, much debated and fully perfected in the 1970s, favored the development of the tactics of obfuscation described by Paul Pierson (Pierson 1994): they made it difficult to calculate the amount to be negotiated and enabled the imposition of losses on one social group (civil servants) at minimal political cost. In the internal work of the Budget Directorate, the overall rate of annual increase in the wage bill was calculated using the RMS and broken down into its different variables. The proportions attributable to category increases, career advancement, entries and exits and increasing technical expertise were calculated by applying the RMS within the restricted framework of the Budget Directorate, and then used to offer the trade unions a limited rise in the value of the Civil Service salary point during annual civil service negotiations. In addition, while identifying and seeking to measure the various components of wages bill growth, the Budget Directorate actually slightly uprated the proportion of these increases attributed to category increases and to automatic increases linked to length of service, reskilling and staff movements. Thus, these calculations constantly made the influence of general increases somewhat more relative, even though they were the only component officially negotiated during annual meetings between the state and the civil service trade unions.

The use of the RMS equation — “$\text{PI} = \text{WBI} = \text{GI} + \text{CI} + \text{GVT}$” — held sway at the Budget Directorate, where it gradually acquired the credibility of a strategic tool for calculations intended to realize new objectives. This analysis of successive wage negotiations over the period clearly demonstrates that civil servants’ purchasing power increased much less after 1976 (3.8% in 1977 as against 6.4% in 1976), to the point where the 1981 increase was just 1.3%.

Ideally, the Budget Directorate would have liked the trade unions to accept the RMS. It would then have been able to base wage discussions, from the outset, on objective figures that were necessarily more restrained than traditional trade union claims for adjustments in line with inflation through uprating of the Civil Service salary point. By the mid-1970s, however, the low-profile use of the RMS was already structuring strong conflict between the Budget Directorate and the civil service unions.

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7 Information based on interviews with former members of the Budget Directorate.

8 The equation “$\text{WB} = \text{GI} + \text{CI} + \text{GVT}$” where $\text{PI} =$ Prices increase; $\text{WBI} =$ wages bill increase; $\text{GI} =$ general increases (i.e. increases negotiated annually between the Civil Service trade unions and the government); $\text{CI} =$ category increases (i.e. the sum of measures that apply to only one group, corps, or category); $\text{GVT} =$ Glissement Vieillesse Technique $=$ the effects of automatic growth of the wage bill by taking into account promotion by seniority and changes in technical expertise requirements.
III.3 The public illegitimacy of a low-profile instrument: the 1977 conflict finds the Budget Directorate and the civil service trade unions in opposition

The year 1977 offers a good illustration of the conflict that brought trade unions and government into opposition over civil service wages (Branciard). In 1977, the government – especially the Ministry for Economic Affairs and Finance and the Budget Directorate – wanted to transform the public terms of wage negotiations by imposing the RMS as the basis for the calculations used in discussions. They wanted the unions to agree publicly that they would formulate claims for general increases on the basis of wage bill calculations (and no longer on the basis of year-on-year level). In 1977, in a period of galloping inflation, the indexation of wages to prices was judged problematic because it was effectively a mechanism for maintaining inflationary pressure, in a French context where civil service negotiations acted as a reference point for pay rises in public enterprises and the private sector. A radical decision to deindex could have been a solution that might nullify the driver effects: this change had been under study by the Forecasting Directorate (Direction de la prévision), but even though its technical feasibility was accepted, it could not be envisaged economically or – above all – politically. The measure was judged too unpopular to be taken on by the Barre Government. In the absence of deindexation, it was vital to control the negotiated amount of any salary upratings. On the advice of the Budget Directorate, the government therefore sought to alter the way increases were calculated by requiring the other side in the negotiations to use more precise figures, which better reflected the real amounts involved. It was clearly a matter of imposing the RMS as an essential frameworking element of a civil service wage control policy.

This use of the instrument and the government’s attempt to impose it as an official measure were immediately denounced by the trade unions, who refused to accord it any scientific, objective value. The protest led to a public conflict between government and unions, who broke off the negotiations for good in September 1977. There was no wage agreement in 1977, for the first and only time from 1972 to 1983 inclusive. Thus, the Civil Service trade unions, in a context of frameworked negotiation, exercised a power of challenge and from then on played the role of “veto actors” (Tsebelis). In a sensitive economic and political context, civil service wage decisions were a crucial sign, given what was at stake financially and politically. At a time when political support within the majority could not be taken for granted, non-signature of the 1977 wage agreement was a bad sign politically. For the 1978 negotiations, the government took a step back and officially readopted a formula using year-on-year level. The RMS remained the Budget Directorate’s favored instrument of calculation, but it was not the agreed instrument for wage discussions.

Although the RMS had been invented to make it credible to establish a Keynesian incomes policy, the instrument was then strategically reappropriated in the second half of the 1970s, so that it appeared, in fine, as simply a low-profile instrument of the Budget Directorate. As such, it lost any legitimacy in its initial role as a learning instrument supposed to guarantee collective agreements on wages and make them credible. This is proved by multiple challenges from trade unions, which called into question the method of calculating the wage bill and also the INSEE [Institut National de Statistiques et des Etudes Economiques] prices index (Branciard, 40). Above all, they provide evidence that the Budget Directorate, although it did

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9 Until 1977, the maintenance of purchasing power was officially calculated using the levels of the Civil Service salary point: the value of the reference point used to calculate civil servants’ wages in December of year n was the value in December n-1 multiplied by the year-on-year growth rate of the INSEE prices index.

10 Demanding a 6% wage increase by level is less specific than demanding an increase of 6% calculated on the basis of the wage bill.
not stop using calculations based on the wage bill, did not succeed in making the RMS a credible public instrument of negotiation. The low-profile, discretionary nature of the use of the RMS was sustained.

The pattern of events in the 1970s therefore ensured paradoxical success for the RMS. The informational advantage that it offered to the Budget Directorate highlights its transformation into a one-way instrument, while the complexity of its calculation method favored strategic manipulation. In this sense, the public administration personnel expenditure policy followed from 1974 to 1981 reflected this use, as well as structuring the Barre Government’s attempt to slow the increase in the public sector wage bill by limiting its growth to the rate of GDP and by strictly maintaining its purchasing power.

III. The institutionalization of the RMS as a low-profile spending control instrument

III.1 Stronger interest in controlling the civil service wage bill: economic dynamics but political constraints

After the first phase of economic revival led by the Socialist-Communist coalition government, the worsening public accounts situation from June 1982 to 1984 (increased budget expenditures, low growth in GDP, rise in public deficits and in state debt) led to an abrupt turn in economic policy (Fonteneau and Muet; Cameron). Following three successive devaluations (4 October 1981, 12 June 1982 and 21 March 1983), the failure of Keynesian reflation was diagnosed. At the cost of arbitration between political and administrative élites, the government of Prime Minister Pierre Mauroy set in motion the turn to economic stringency. This led a certain number of actors (notably members of the Treasury Directorate) to recommend the reversal of the policy mix: it was expressed in the abandonment of a large part of the measures set in motion in 1981 (the Keynesian-inspired reflationary policy) and in the appropriation of objectives close to those pursued by the Barre Government – refusal to devalue, maintaining the strong franc, and countering inflation through economic stringency measures (reducing demand and public spending). From now on, the battle against inflation and the policy of economic stringency were to go hand-in-hand. This change in the nature of economic policy made the policy of reducing public spending\(^\text{11}\) and its translation into the state’s personnel expenditure even more pressing.

In fact, the development of macroeconomic priorities lent strong legitimacy to measures to control and reduce the main budget items (running costs, staff and wages). State personnel expenditure (pay – thus, both wages and staffing levels) represented a high proportion of the structure of the State Budget – in 1983, 35.9% of state expenditure. In the early 1980s, its importance was even greater, because Civil Service wage rises still served as a reference point for general wages policy and had inflationary effects on public enterprises and the private sector. Indexation of the Civil Service salary point to growth in prices accentuated this effect. State personnel expenditure therefore became increasingly a target, since mastering it was at the center of a dual logic: reducing state expenditure both to control deficits and to combat inflation. Action on state wages became unavoidable and legitimate. At the Budget Directorate, deindexing wages in order to break the inflationary wage-price spiral was a priority in the

\(^{11}\) The first manifestation symbolic of this change was that standards were set to try to limit spending growth and restrict the level of deficits: in March 1982 – on the initiative of the French President, in consultation with ministers – a limiting threshold for the budget deficit of 3% GDP was established publicly. This decision is dated to 2 February 1982 in Favier and Martin-Rolland, 496.
context of a crisis in public finances. Determining the wage rise to be negotiated with the civil service trade unions therefore acquired considerable importance, expressed by senior civil servants at the Directorate in terms of a crusade.

However, renewed attention to state personnel expenditure at this period came up against a major stumbling-block. The political commitments of May 1981 remained solid and could not be challenged abruptly, since there was a Socialist-Communist coalition government. Similarly, from 1981 onwards, public policies initiated in the sphere of administration had objectives that ran counter to the embryonic policy of economic stringency (decentralization; extending and rationalizing the Civil Service Act and Regulations; strengthening public sector employment). Budgetary policy therefore had to operate – along with others – in the context of a defined set of previous public interventions in the administrative sphere, which were far from convergent. Reflationary economic policy, initially adopted by the Mauroy Government to combat unemployment, and civil service policy, spearheaded by the Communist Civil Service Minister, were both favorable to public sector employees and benefited from strong coalitions of support. From 1982 to 1984, reversing priorities favorable to public-sector employees constituted a political dilemma. The Socialist Party, in particular, was faced with a dilemma: sacrifice the political identity it had gained from the 1981 presidential election, in order to form new support, or oppose the groups pleading from within its ranks for a more liberal policy to combat financial imbalances while favoring the middle classes electorally. In 1982-3, and again in 1984, the Mauroy Government and then the Fabius Government could not radically claim the credit for a monetarist turn and publicly abandon their previous commitments. The frequency of elections (presidential elections in May 1981 and 1988; a general election in March 1986; district elections in March 1982 and municipal ones in March 1983) lent a certain rhythm to the display of economic stringency measures. Therefore, this context validated budgetary strategies that allowed the reduction of state personnel expenditures and the limitation of increases in them, by minimizing political costs. The RMS, an instrument already under the mastery of the Budget Directorate and in use as a strategic calculation tool, then attracted renewed interest and acquired a usefulness and legitimacy that it did not have in the 1970s.

III.2 Mastery of the RMS by the Budget Directorate: competence validated

Failing broad political support, and in a context of redoubled crisis in 1982-3, the Budget Directorate favored the instruments that it had available and knew how to manipulate for more long-term investments and strategies. In path-dependence terms, the view could be taken that the costs of investing in low-profile methods (and notably in research into calculating the wage bill) and the learning costs of the wage calculation instrument encouraged the Budget Directorate to pursue the strategy under way since the second half of the 1970s. We know that knowledge and know-how are acquired in the complex production processes by which an institution invests in “solutions”, because they allow it to fulfill the objectives it is responsible for, as well as to respond to the “problems” and constraints it encounters. From 1982 and after the failure of structural reform such as the Rationalisation des choix budgétaires (RCB) in the 1970s, the Budget Directorate intensified the use of low-profile methods, which enabled budgetary savings to be made and wage claims to be moderated without recourse to provocative public announcements or to reorganizations with hazardous outcomes. Even other budgetary and managerial instruments (fixing targets and expenditure ceilings; procedures to prevent new expenditures without new receipts; “prioritization” programs and programs to establish planning and evaluation instruments) used at the same period in other states (Schick 1986, 1988) were not mobilized. The strategy validated in France relied above all on existing
know-how and its properties, notably the asymmetry of information between the Budget Directorate and the sectoral ministries.

Against this backdrop, with the technical nature of instruments – as well as their low profile – at stake, senior civil servants from the Budget Directorate (Bureau 1-A, in charge of budgetary reporting, and especially Bureaus 2-A and 2-B in charge of wages and conditions) played a sensitive role. Top bureaucrats in these offices were the people who had to translate the political objectives adopted (the turn to economic stringency) into technical measures. These were specialists in the service of the political, bearers of precise technical solutions, which they proposed and then did their best to have adopted by the political actors, regardless of who held political power. From 1982 to 1988, the Budget Directorate was an influential breeding ground and a site of socialization for the requirements of budgets implemented during the period, favoring an emphasis on the exercise of budgetary control over ministries and outlays. Specializing in costing policies on civil service wages, staffing levels and conditions, the second Vice-Directorate in charge of the Civil Service (Bureaus 2-A and 2-B) played the most determining role in analyzing the mysteries of civil service wages and staffing policy from 1980 to 1990. Its team of senior civil servants refined, rationalized and perfected an instrument for calculating the wage bill, then pleaded the case for imposing it on trade unions in wage negotiations. In the period 1983-88, Bureau 2-A benefited from the constant support of other, more generalist and more “political” members of the Budget Directorate, who defended the proposed technical solutions, took them up and expressed them politically. Starting in 1983, especially from 1984 to 1986, and then from 1986 to 1988, linked groups of senior technocrats and of those occupying political positions in ministerial private offices constituted a network of actors, who were in a position to formulate restrictive budgetary objectives for public spending and for expenditure on administration, and then to impose their concrete expression in the form of technical instruments.

Thus, in a context weakened from 1982 onwards, the Budget Directorate was the administrative agent for measures of economic stringency defended by the governments of Prime Ministers Pierre Mauroy (1981-1984) and then Laurent Fabius (1984-1986). It made the RMS one of its favored instruments in the policy of economic stringency and the battle against inflation. The status of the Budget Directorate’s use of the RMS was thus modified: in the 1970s, it was an instrument for calculations to minimize wage increases, but in the 1980s it became a technique for regulating wage negotiations.

### III.3 Incremental, but cumulatively efficient, use of the RMS: a “virus” strategy for a “low-profile” instrument

In his analysis of welfare state reform policies, Paul Pierson stresses the importance of strategies for minimizing political costs and, among other things, the role of tactics that employ obfuscation or dissimulation (Pierson 1994, 19-22). Several of these (increasing complexity, decrementalism, even making cuts automatically) characterized the way the RMS was used in the 1980s. In fact, the Mauroy and the Fabius Governments wanted to act on civil service expenditure, but still sought to avoid shouldering the blame for an unpopular policy of economic stringency. The Budget Directorate then offered the technical expertise that aimed to lessen the visibility of the negative consequences of a reduction in public wages increases. It established an incremental strategy that allows the intensification of the use of the wages instrument. This “virus strategy” (Palier) initially introduced the RMS in a very limited way and so was not perceived as a profound change; but it went on to be developed step by step and lead to greater cutbacks.
The use of the RMS as an instrument in the Civil Service was triggered by the 1982 prices and wages freeze, introduced by Jacques Delors, Minister of the Economy, and his team to accompany the second devaluation in June of that year: this lasted four months, from June to 31 October. It aimed to break the vicious circle of price and wage rises, in the objective of breaking down “expectations of continued inflation” (Fonteneau and Muet, 308). At the end of the freeze, a means had to be found to prolong the effects of the measure through the implementation of a true deindexation policy. Processes for determining public sector wages were at the heart of the action taken by the Second Vice-directorate within the Budget Directorate. This was developed incrementally in four stages, from 1982 to 1986\textsuperscript{12}, and imposed the intensive use of the RMS in wage negotiations.

The first stage was structured by the establishment of programmed wage movements in the public sector (civil service and nationalized industries), based on inflation-related objectives fixed \textit{a priori} by the government. Under the agreement of 10 March 1982, relating to the increase for the second half of that year, there was a break with the conventional system of aligning the rate of combined public-sector pay rises with the rate of combined price rises at the end of each quarter of the calendar year, on a “sliding scale”. For the second half-year, the Report of Conclusions provided that uprating would take place according to “preset” rates, as a function of the government’s price growth objectives. The text provided for a September 1\textsuperscript{st} clause adjusting the respective growth of prices and pay in the first half-year, as well as a January 1\textsuperscript{st} 1983 safeguard clause. There was no longer any systematic annual alignment, but a fixed-date alignment. The Second Budget Vice-Directorate took responsibility for putting the agreements into practice, and thus gave itself the possibility of spacing out the dates of public-sector wage reevaluations while providing for later meetings (safeguard or review clauses) to examine the concrete situation of employees’ purchasing power. This was the new \textit{official} basis of the deindexing process, criticized by the trade unions but imposed by the Budget Directorate in a favorable political and economic context.

The second stage in the use of the wages instrument imposed changes in ways of measuring wage increases for calculating civil servants’ purchasing power during negotiations with trade unions. Under the agreement of 22 November 1982, the system of preset increases was institutionalized and “negotiated” in exchange for guarantees in the form of safeguard (or review) clauses – clauses providing for later meetings between state and trade unions to examine the concrete situation of employees’ purchasing power. At stake in the way these clauses were worded was the imposition of the RMS as the official method of calculation. Making use of the asymmetry of information in its favor and its mastery of techniques, the Budget Directorate imposed a calculation based on the wage bill as a reference tool for measuring wage growth. In the course of just one year, indexation of wages to prices had had its day and been replaced by two new low-profile instruments: a system of preset increases and the assessment of purchasing power on the basis of the wage bill.

The third phase in the imposition of the RMS took place early in 1984. Having imposed the RMS as a wage negotiation instrument in relation to public enterprises and the civil service, the Budget Directorate manipulated its terms by determining the amount of the increase variable linked to \textit{Glissement Vieillesse Technicité} (GVT) to be used in calculating the growth in public employees’ purchasing power. The Prime Minister’s Wage Circular of January 1984,

\footnote{\textsuperscript{12} These phases were identified through comparison of three types of data: information gathered during our interviews with members of the Budget Directorate at the period and with some of the trade unionists involved in the negotiations; extremely precise trade union accounts written later (in particular, Bidouze; Branciard); and general articles on civil service wages policy (Daniel).}
written by Bureau 2-A, apart from programming wage growth according to the government’s inflation target, provided for the situation to be assessed in terms of the wages bill. It specified that the maintenance of purchasing power would be measured in relation not only to average increase in prices but also to three variables: the “carryover effect” (corresponding to the part of the wage increase that results from general upratings the year before, estimated at 5.61% in 1984), the effect of category increases (evaluated at 0.36%) and the effect of GVT (fixed at 0.5% inclusive). The intellectual frameworks for determining purchasing power were therefore explicit: the effect of general increases (GI); the effect of category increases (CI) and the effect of individual increases corresponding to GVT and taking into account automatic wage growth due to promotions in rank by seniority. These frameworks for negotiation were presented as nonnegotiable elements by the Budget Directorate. The official introduction of GVT into the calculation of the wage bill was imposed incrementally by initially fixing an “inclusive” rate of GVT (0.5 %). Taking into account the real value of GVT could have prevented negotiations going ahead, since the amount of the automatic rise in the wage bill caused by the GVT effect would have covered the whole price rise. However, the essential result was established: the Civil Service salary point rose less quickly than prices, and a seemingly significant inflationary mechanism – the automatic readjustment of the Civil Service point year-on-year in order to take into account soaring prices – was broken. By introducing the GVT and carryover effects and by bringing category increases into the calculation, the Budget Directorate imposed an automatic increase mechanism that proportionally diminished the part open to negotiation with the trade unions: the general increases and the value of the “civil service salary point”. It therefore restrained the amount that could be obtained through annual wage negotiations. The trade unions refused to accept these new bases for calculation, and no agreement was negotiated in 1984. However, this change in the method of calculating the growth in civil servants’ purchasing power was the lever for deindexation, and it applied to all three branches of the civil service (central, or state, administration; local government; the health service), as well as to public enterprises.

In the fourth stage, which lasted beyond the end of 1985 into 1986, under the government of Prime Minister Jacques Chirac (1986-1988), the RMS instrument was used more intensively: this increased its deflationary effect and further reduced the amount of negotiable general rises. There were two reasons for new manipulations of the instrument, relating to a concern to rationalize the method of calculating the wage bill and to the political strategy of using GVT.

Firstly, GVT was manipulated because of the Budget Directorate’s concern to perfect the instrument so as to establish figures that were indisputable and therefore still more legitimate in negotiations. There were numerous disagreements between state bodies – Budget Directorate, INSEE and CERC [Centre d’Études sur les Revenus et les Coûts] – about assessment of the wage bill in public enterprises and in the Civil Service, notably because the method of calculation still remained largely uncertain and depended on sources of information (pay slips, aggregated data on wages), over which the various institutions had differing levels of command (Daniel). The issue of wage bill comparability between public enterprises, the civil service and the private sector was at stake in a context where the knock-on effects – generally from the public sector onto the private – were great, and so constituted a decisive mechanism in the battle against inflation. In 1985, differences and “anomalies” pointed up between figures from the Budget Directorate, INSEE and CERC and fierce conflict led the Budget Directorate to change its method of calculating GVT, from 1986 onwards, to achieve a still more “objective” basis. At the end of 1985 and, especially, in 1986, Bureau 2-A pleaded the case for an approach that calculated the “bill for the present workforce”, removing the effects of departure and recruitment on the wage bill. At the end of 1985, the Budget Directorate suggested that
the use of GVT would no longer be based on the “GVT balance”, a relatively moderate amount that takes into account structural variations in the population studied, but by looking at growth in the average pay of personnel in post (RMPP) over the period under consideration, combining general and category increases with “positive GVT” alone\(^\text{13}\). Positive GVT (the rate for present workforce numbers) corresponded to a wage bill higher than the GVT balance (the rate for permanent workforce numbers). Since it was more stable, this basis for calculation was judged more reliable by the senior civil servants of Bureau 2-A\(^\text{14}\). At the same time, it was also even more restrictive, since it took into account only positive GVT and no longer made its impact relative to the negative effects of entries and exits. By increasing the proportion of GVT used in determining growth in the wage bill, the authorities made a commensurate reduction in the part negotiable with the trade unions, i.e. increases in the civil service salary point, or general increases.

Secondly and consequently, manipulating GVT raised not only the learning stakes but also the strategic and political stakes. The advent of a right-wing government in 1986, making the battle against the public deficit a priority and involving a discourse critical of state and administration, offered new opportunities to the Budget Directorate to place even further constraints on wage negotiations. According to the economic advisers, the Prime Minister “totally delegated” everything relating to firming up the policy of economic stringency and the necessary budgetary arbitrations to the Ministers for Economic Affairs, Finance and the Budget (Elgie, 81-89), so that he would not be held directly responsible for an unpopular policy of cuts. Apart from the privatizations and the significant reduction in sectoral subsidies and intervention spending, the administration was equally concerned with an increased effort on wages policy and an effort to limit civil service workforce numbers. The Budget Minister’s private office and the Budget Directorate were given carte blanche for the mini budget of 1986, as well as in discussions of the draft budget for 1987 (Elgie, 113-121). The Second Vice-Directorate of the Budget Directorate proposed reemphasizing the use of the instruments established in 1983. Firstly, a civil service wage freeze was declared for 1986, which excluded everything. For 1987, the new Director of the Second Vice-Directorate – the former head of Bureau 2-A – succeeded in imposing a shift from the use of inclusive GVT balance to positive GVT alone, which increased the automatic rise in the purchasing power of civil servants even further and reduced proportionally the part negotiable within the general increases. In May 1986, a circular from the Budget Minister on public enterprises definitively imposed the positive GVT and sought a Trojan horse to do the same in the civil service. This rate was estimated between 1.6% and 1.8%, while GVT balance was fixed at 0.5% on an inclusive basis. The change in GVT was argued and justified by the requirement to calculate a public em-

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\(^\text{13}\) Up to 1984-5, the amount of GVT had been calculated on an inclusive basis and it represented the assessed “GVT balance” – that is, a wage bill calculated from growth in the average per capita wage for the permanent workforce (in the jargon of the Budget Directorate, the salaire moyen par tête, or SMPT), by integrating the structural variations in the population studied and by taking into account the two component mechanisms of GVT: the effect of the positive impact on the wage bill of promotion by length of service, by selection or by rank and the acquisition of new technical expertise (known as ‘positive GVT’), and the shuttle effect (or ‘negative GVT’) which shows the generally negative impact on the wage bill of the interplay between workforce entries and exits. “GVT balance” therefore represented a relatively moderate amount, since the shuttle effect significantly attenuated increases due to the career effect, taking into account retirement and the recruitment of young employees paid less than those who leave, thus reducing the wage bill. By recruiting young people, private enterprise and the civil service helped to increasing the overall wage budget to be negotiated, since, in doing so, they reduced the amount of GVT.

\(^\text{14}\) INSEE was opposed to other methods of calculation, but in 1986 the legitimacy and power of the Budget Directorate prevailed.
ployee’s purchasing power on a stable, pure basis – that is, by considering only employees present from one year to the next. The advent of a new government and its flagging-up of neoliberal objectives thus enabled further incremental modifications to the RMS and the manipulation of a variable to justify a wage freeze by showing that public employees’ purchasing power had increased automatically, well beyond inflation (4%), under the effect of GVT.

Throughout the whole period (1982-1988), the effects of the restrictive policy on wages and the purchasing power of civil servants were clearly visible. The budgetary effects of using the RMS were considerable, even though it remains difficult to evaluate the amount. Estimated by the team from Bureau 2-A at 60 billion francs from 1982 to 1988, the budgetary savings made by applying the RMS were estimated at 72 billion francs from 1983 to 1992 by the economist Jean-Marc Daniel in his article on the state’s wage policy (Daniel). Over the period 1981 to 1988, annual growth in spending on pay and pension costs for the state slowed substantially: 15.4% in 1982, it was no more than 9.6% in 1983 and 4.5% in 1985, reaching -0.1% in 1987, then 3.7% in 1988. Very significantly, too, personnel expenditure as a proportion of the state budget diminished between 1980 and 1988: it was 38.7% in 1980, then 35.9% in 1983, stabilizing at 36.3% in 1988. Similarly, the state’s wage bill as a proportion of GDP went from 6.14% in 1977 to 6.26% in 1983, then in 1990 fell to 5.24% (Daniel: 78-9) – the level it was at before the crisis (having been 5.2% in 1967). Civil service expenditure growth was first slowed down by the wages (and prices) freeze of June 1982, in the context of the battle against inflation. The creation of budget-funded jobs was also significantly reduced (41,000 new budget-funded jobs in 1982, 12,400 in 1983, then 7,000 in 1984). Thus, the state’s wage bill contracted markedly throughout the 1980s. As a result of the decremental approach imposed by the Budget Directorate, civil servants’ purchasing power gains (wage increases in relation to inflation) were considerably reduced in the 1980s: the automatic increases linked to GVT were increasingly taken into account, as were, to a lesser extent, the category measures that applied to one group or another in the civil service. Purchasing power gains from general increases (the increased value of the civil service salary point) strongly diminished from 2.6% in 1975 to -1.1% in 1979, -0.7% in 1984 and -1.7% in 1987. This means that purchasing power gains came discreetly from category measures that apply to some specific groups within the civil service (evaluated at around 0.4% in the 1980s). But, most of all, purchasing power gains were considered by the Budget Directorate as resulting from mechanical effects linked to GVT: they went from 3.9 in 1979 to 1.7 in 1983 and 1.2 in 1985, reaching 0.6 in 1987. Linked to general increases, they no longer allowed compensation for inflation.

Although it is difficult to estimate how civil service wages would have evolved in the absence of the RMS instrument, budgetary effects on salaries showed that economic stringency and changes in civil service wages policy were strongly implemented in the French context, but via discreet paths and without radical political commitments or formal structural reforms. In this regard, the intensified use of the RMS is emblematic of the kind of tactics analyzed by Pierson or described by Palier as “virus strategy”. In the 1970s and – even more so – from 1982 to 1986, the instrument had been used as a low-profile tool to impose wage discipline in the context of the policy of austerity. It allowed politicians and functionally politicized bureaucrats to save their political capital for other battles and other unpopular policies.

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15 It was therefore necessary to neutralize the effects of negative GVT (entries and exits) and take into account only positive GVT.

IV. The effects of Instrument-dependency: limitations and possible rebirth

The institutionalization of GVT illustrates the new appropriation and the success of a budgetary instrument that is both a cognitive instrument for acquiring knowledge and a political and strategic tool. However, its “success” remained precarious and dependent on the political, on policy and on the institutional configuration that conferred meaning on it — or did not. From the early 1990s until the present day, the instrument has lost part of its efficiency as it has lost its low-profile dimension. It has also been constantly challenged by the civil service trade unions. Consequently, new strategies have recently emerged, adopting new patterns of change.

IV.1 The limits of a low-profile instrument: new facets of the wages issue since 1988

Despite some success, the extensive use of the RMS as a lever for the policy of economic stringency was a low-profile public policy whose inconveniences and limitations came clearly to light during the 1990s. In many ways, the robustness of the instrument — which guarantees its efficiency — also has important drawbacks, by its very nature and because it creates instrument-dependency. Briefly, three mechanisms may be highlighted that perfectly exemplify the structuring influence of some characteristics of the RMS, as well as the intrinsic limits of its use.

Firstly, both the focus on the wages instrument and its low-profile use had negative effects in the medium term. The choice of a decremental policy on wages was more easily reversible and led to no long-term structural change. This low-profile public policy therefore remained subject to changes in the budgetary context as well as to political cycles — that is, to changes of government or to changes of policy direction by governments, as the context changed or as they sought support. The mechanism was effective in the 1980s, but it was based exclusively on the Budget Directorate’s actions and was therefore dependent on the legitimacy of its interventions. In 1987, as it was being institutionalized, the RMS was also publicized and even publicly claimed by politicians to explain that civil servants’ purchasing power had not diminished in 1986 and would not diminish in 1987. From then on, publicity surrounding methods of economic stringency started to limit their political effectiveness, crystallizing opposition to them. At that period, the advent of a more favorable economic context relaxed budgetary constraints and reduced the instrument’s legitimacy. As economic stringency became less legitimate, there was renewed dissatisfaction with the negative effects of economic policy. Significantly, in 1988, in the political aftermath of the presidential elections, strikes and social movements spread throughout the civil service and public enterprises: their common denominator was the demand for civil service wage uprating, characterized as catching up after years of economic stringency initiated by the Socialist Left itself. In this period, Prime Minister Michel Rocard’s government took responsibility for another approach to the administrative issue, running counter to the Budget Directorate’s preferred options (Bezes 2001). The two pillars of the policy of economic stringency (wages and workforce numbers) were totally reconstructed in the context of a return to growth and a considerable increase in fiscal receipts. An advantageous wage agreement was negotiated and signed (16 November 1988), as was a broader reform of the civil service wage structure (the Durafour Agreements, 9 February 1990) that readjusted the pay scales of low-paid categories B, C and D. To relax the effects of economic stringency, the Rocard Government found itself engaged in corporatist strategies, using category increases in the form of bonuses for certain groups of public employees (teachers, nurses, court clerks, social services inspectors, etc.). In this context, the instrument revealed the limits of its adaptability, with discrepancies emerging in its intrinsic, solid properties. Further civil service wage agreements (9 November 1993, signed by the government of Prime Minister Edouard Balladur, and 10 February 1998, signed by the government of Prime
Minister Lionel Jospin) were embedded in the same constraints. Sensitive electoral contexts led governments to conduct successive negotiations without declaring the use of the RMS. The agreement of 10 February 1998 was officially negotiated on the previous basis of year-on-year level, taking into account only the value of the standard civil service salary point. This agreement was viewed by the Budget Directorate as costly; no other general agreement has been made since 1998. Negotiations failed in 2005, only serving to confirm disagreement between civil service unions and public authorities.

There are other limitations resulting from the effects of intensive use of the RMS. The first inconvenience created by the RMS related to the fact that it led to compensating category increases, in the form of bonuses, to correct the absence of general increases in the salary point. This use of bonuses, “arranged” by the state because they do not apply to payment of retirement pensions, destroyed the wage hierarchy and, in the long run, emphasized the fall in the wages replacement rate of pensions. Moreover, as Daniel has stated, although individual living standards for state employees were maintained, wage control measures found expression in the substantially wider gap between public sector wages and private sector wages, particularly for senior managers in the civil service (Daniel 1992). Over the period, limiting wages by inflating the GVT effect was shown to be counterproductive. The fall in the number of candidates competing for entry to the civil service – in general, and to the *Ecole nationale d’Administration* (ENA) in particular (Garrigou) – may be interpreted as a perverse effect of restrictive wages policy. Finally, to these effects must be added the eventual exhaustion of the deflationary effect of the RMS and its limited capacity, on its own, to reduce personnel expenditure. Firstly, in theory, in the absence of inflation – as in the 1990s – the automatic effects of GVT alone are enough in themselves to maintain civil servants’ purchasing power. A tool of competitive disinflation, the RMS is no longer of any use when the objective of low inflation has been achieved. Secondly, in the context of recurrent budgetary crises (1993-4 or 2002-3), the low-profile wages instrument seemed too limited in its concrete ability to reduce the state’s personnel expenditure. This brought about a change in approach that occurred in the late 1990s. The issue was not so much a matter of acting to reduce wages directly (and thus increase disaffection in the civil service) but a question of reducing staff numbers: this alone would lead to a real diminution in state expenditure, while still allowing wages to be uprated.

The third limitation of the low-profile wages policy relates to its intrinsically confrontational structure. There have been controversies around using the RMS and GVT to calculate growth in civil servants’ purchasing power since the late 1980s, and these have been increasingly accentuated. In outline, they are based on the structure of the balance of power established in the 1970s, which placed the Budget Directorate and the trade unions in opposing camps. This confirms the idea of an instrument-dependency, i.e. the limitations deriving from reiterated manipulation and adaptability of a technical tool with intrinsic properties. The structuring effects of using the RMS and GVT (asymmetry of information, complex calculations and debates, the monopoly established by the Budget Directorate, trade union hostility) remained constant throughout the 1990s. In fact, the gulf between the public authorities and the civil service trade unions became even deeper. On the one hand, the RMS continued to be used in the arguments of the public, administrative and parliamentary authorities. It was very successful as a legitimate learning instrument, as is evidenced by budget documents on personnel expenditure, by reports of parliamentary task forces on the civil service and by administrative reports from the Civil Service Ministry, the Budget Directorate and the National Planning Commission. Concepts and mechanisms characteristic of the RMS – notably relating to the effects of GVT – were assimilated by senior civil servants and elected officials, and formed the basis for the thinking of political and administrative experts. On the other hand, and in
contrast, most of the civil service trade unions rejected the overall calculation based on the wage bill and denounced its harmful effects on civil servants’ purchasing power. They presented the RMS and GVT as “daylight robbery”. Thus, the RMS instrument was associated structurally with a strong institutional opposition, making any policy based on social dialogue difficult. On several occasions since the late 1980s, initiatives have been taken to rationalize the method of calculation, focusing on the aim of getting the trade unions to accept the RMS, in order to try and make a true negotiated civil service policy possible. In 1988, a task force was created, charged with formulating proposals for a renewal of wage negotiations in the civil service (Guilhamon). It pointed out the negative effects of the low-profile policy centered on the RMS and GVT, the hostility of civil service trade unions, their disagreements with the public authorities over calculation methods, and the freezing of all collective negotiations. The Budget Directorate’s whole strategy was implicitly criticized. The recommendations argued for greater publicity and transparency in the terms of negotiation, for a better definition of the measurement indicators (centered on growth in the average pay of a group of natural persons present over the period) and for a real comparison with the private sector in order to ensure that the civil service was not disadvantaged. The stated aim of “restoring social dialogue” in the context of ‘public service renewal’ echoed the criticisms directed at the low-profile use of the RMS and its delegitimization in the late 1980s. Very recently, in February 2004, the issues linked to GVT were taken up again in similar terms, in the context of a debate on overhauling the wage negotiation rules. The question of the “methodological framework for wage negotiation” was raised again. The Civil Service Minister, Jean-Paul Dellevoye, then proposed to set up a “pay observatory” responsible for “creating an objective, shared statistical base”. The seven civil service trade unions denounced the idea, and this led to the project’s failure. On this point, the terms of the debate recall exchanges in the mid-1960s, in which government and trade unions were opposed. The tension between the three intrinsic properties of the RMS – a tool for acquiring knowledge, an instrument of spending control and an element in stabilizing the terms of social dialogue – remains, sustaining both contradictions and conflicts.

IV.2 New strategies for retrenching civil service wages expenditure at the turn of the century

At the end of the century, in a context where public expenditure still remained a crucial issue, the strategy of decreasing civil service wages by “working within the existing framework” (Hacker) with a low-profile instrument appeared ineffective. At this time, both other “internal” and stronger “external” strategies were developed. First, the demographic analysis of civil service population trends provided evidence for stronger initiatives on the overall public-sector personnel system. In 2000, the Commissariat général au Plan published an alarming report on public employment trends which revealed that 720,000 public servants will be retired from the State civil service by 2012 – that is, 45% of all state employees (Commissariat Général du Plan). The report presented this macro-evolution as an historic opportunity for the French state to make hard choices about its personnel management and recruitment strategy, both in quantitative terms (do policy-makers need to replace every public servant?) and in qualitative terms (if recruitment is necessary, what should the priorities be?). These figures were made public, and they transformed Budget Directorate and government strategies on personnel policies. The governments of both Prime Minister Jospin and Prime Minister Raffarin announced they would stabilize the overall number of staff by balancing out retirement

17 Second Round Table discussions with the civil service trade unions on the subject of renewing social dialogue, Thursday 27 January 2004.
departures and new recruitment. The Budget Directorate asserted its objective of not replacing one retired public servant in two, and this now frames all negotiations with ministries. This non-replacement strategy – that is, an approach that delegitimizes and blocks any compensatory interventions (in this case, recruitment) in the face of major shifts in environment – is termed “drift” by Jacob S. Hacker in his analysis of the hidden politics of social policy reform (Hacker).

At the same time, the core idea of the RMS (to take into account the overall wage bill) has been reframed within a big “external” legislative change, and its ubiquity thus reinforced. Indeed, the passage of a new Institutional Act on Budget Legislation, adopted on 1 August 2001, retained the main significance of the RMS, while encapsulating it in a broader, rationalized legislative framework. The Act, to be implemented by 2006, set up a results-oriented budget, redesigning the overall budget architecture by organizing credit items into 34 assignment groups and 132 programs, each a consistent set of measures coming under the same ministry and involving both specific objectives and expected results that would be subject to review. Within each program, public managers will be given a great deal of room for maneuver in the use of appropriations allocated to them, with stronger freedom to redistribute these appropriations between types of expenditure (with the exception of topping up personnel appropriations from other appropriations – so-called “asymmetric fungibility”). A wage bill ceiling and a jobs ceiling were to be defined for each programme and for each ministry, detailing jobs on the State payroll. These new global frameworks require demanding overall wage bill measurement at every level, along with forecasts that will optimize the management of each ministry’s total wage bill.

V. The hidden politics of administrative change: what a low-profile instrument tells us about the transformation of bureaucracies

For those interested in institutional changes in administrative systems, this case study demonstrates three significant arguments about retrenchment policies that use low-profile instruments.

V.1 Why instruments matter: a concrete view of administrative changes

First, through this case study, emphasis has been placed on the salience of techniques for calculating, measuring, classifying and indexing, linked to the construction of reliable information on the activities of contemporary government. An examination of how the RMS was invented and perfected throws a spotlight on the importance of knowledge as stakes in administrative reform. The attention paid to the “administrative population”, from the two perspectives of number (the size of the workforce) and – especially – budgeting (the size of the wage bill) requires technical devices to provide knowledge of the number of public employees and a precise measure of their demands on state expenditure. The conditions in which this measuring tool was created and used – and the knowledge issues related to them – illustrate the importance of a technocratic perspective (Weaver 1989) that raises the value of techniques in administrative policy as a way of rationalizing policymaking and providing a predictable and “objective” mode of civil service wages calculation. The instrument matters all the more as measurement, once launched and “backed by powerful institutions”, becomes “real, fateful and autonomous” (Espeland and Stevens, 325). Seemingly, the RMS may be viewed as a neutral instrument showing the various components of the overall civil service wage bill. Once such a mode of calculation was institutionalized, it became extremely robust but also, paradoxically, adaptable to different policy aims. Initially viewed as an instrument for learning in a context where the rationality of the state was being questioned, the RMS then came to be
seen as a possible foundation for trust in a Keynesian-inspired incomes policy, before finally being used as a crucial tool in imposing economic stringency. In all cases, the instrument provides new capacities for government interventions by creating new “objective” realities. By allowing itself to become an object of investigation through the RMS, administration also becomes an object of public intervention (since the public authorities may then want to act on whatever the instrument has categorized and highlighted). However, as nicely illustrated by the RMS, an instrument also refracts power relations. Although the RMS – like all measurement instruments – has “produced depersonalised, public forms of knowledge” (Espeland and Stevens), it is not uncontroversial. The categorizations and methods of calculation that form the basis of wage increase mechanisms were discussed and contested, from the late 1960s, to the point where long-lasting opposed positions crystallized. The second and fourth parts of this article have analyzed the controversies of the 1970s and 1990s around the RMS, privileging the conflict that brought trade unions and employers (neither of whom recognized the scientific robustness or the legitimacy of the RMS) into opposition with the Budget Directorate of the Ministry of Finance.

V.2 The low-profile art of government: depoliticized techniques in politics and the politicized use of depoliticization

The second message of this article is to emphasize the important part played in the art of government, since the 1970s, by governing through automatic, unobtrusive, incremental, low-profile mechanisms at times of economic crisis (Weaver 1986, 1988, 1989). Starting from the late 1970s and continuing until the late 1980s, the RMS gradually became an unobtrusive strategic instrument in the policy of civil service expenditure reduction. Its low-profile dimension relies on two elements. First, the method of calculation, its technical nature and the statistical realities it constructs made the RMS a particularly depoliticized instrument for rationalizing civil service wages policy. The instrument’s constituent properties created possibilities for automatic wages policy adjustment. The RMS relied simultaneously on increasing the complexity of the formulae for calculating pay increases, on decrementally decreasing the sum that could be negotiated with the social partners and on introducing an automatic mechanism for reducing this sum. In particular, the new equation defining the calculation based on the wage bill and integrating GVT introduced a mechanism for the automatic reduction of the annually negotiable part of public sector employees’ purchasing power (the general increases), limiting gains made through a parallel mechanism for increasing the structural part of this same purchasing power (via GVT). This picture therefore accords a great deal of importance to inflationary automatic mechanisms, which it implicitly criticizes. Second, the low-profile dimension of the RMS came from the strategic and political uses of the instrument and especially from its monopolization by the Budget Directorate in wage negotiations with the trade unions. The RMS met the expectations of those who implemented it, both through its dual impact (reducing public spending and limiting wage increases to help force down inflation) and through its political benefits: reducing the scope of political conflicts by concealing civil service wages stagnation or even decreases. In relation to the civil service, the Mauroy and Fabius Governments were “blame minimizers”, looking for mechanisms to enable them to obtain the desired result while avoiding shouldering the blame (Weaver 1986) – that is, to reduce both the concentrated costs of a public policy and the risks of imputation. The Budget Directorate offered a technical, complex, asymmetric solution that made this low-profile action possible; it was also in a position, through its networks, to get the instrument accepted politically and impose its use in the context of wage negotiations. The instrument allowed the development of a budgetary policy of retrenchment while minimizing its political costs (Pierson 1994).
This throws light on a set of practices that do not define public administrative reforms so much as they reveal the art of governing bureaucracy through “low-profile instruments”. This softly-softly approach is an intentional strategy, on a similar footing to the tactics whereby governments render their actions “opaque” when they are worried about the visibility of policies that reduce accrued advantages or social benefits and so might lead to electoral sanctions (Pierson 1994). Several factors explain the “success” of this art in the case of the RMS. The incremental adoption of the instrument made opposition hard to organize, since the successive steps taken were small, not very visible and in themselves represented only slight variations. It was also difficult to oppose the strategy of the Budget Directorate and the government. In 1982-4, the economic context of crisis did not put the civil service unions in a position of power, and they could not really oppose a policy of economic stringency that demanded they contribute to the national effort. Further, the complexity of the calculation, the difficulty of gaining access to the information it was based on and the low-profile mode of action adopted all made it hard to build on the weak mobilization against official use of the RMS. Finally, the public authorities played on divisions between its opponents. Some trade unions agreed to talk on the basis of the RMS and accepted these frameworks as a basis for negotiation. Winning one trade union actor over to the cognitive frameworks imposed by the Budget Directorate weakened protest and gave credence to the “truth” of the RMS. The trade unions’ difficulties in creating a real collective opposition to the new calculation reinforced the instrument’s success during the 1980s.

Overall, this case study of the different faces of the RMS has helped us to consider the complex process of low-profile government, which relies both on the need for more expert information and on its manipulation for political reasons. This case suggests that depoliticization and politicization processes may be more intricately intertwined than is usually observed (for a convergent argument, see Flinders and Buller).

V.3 Administrative changes in scope and time: new scales for observing and explaining retrenchment in bureaucracies

The third concluding observation to be made focuses on the kind of changes emphasized by the instrument approach. While most studies of administrative reforms to some extent highlight public policies that target the structures and rules of bureaucracies, the case of the RMS allows us to observe “everyday forms of retrenchment” (Hacker) – that is, internal but significant shifts in administrative systems without formal revision. The changes induced by the “low-profile” instrument were both incremental and at the margin (such as the use of an “equation” in negotiations). Compared to budgetary and administrative reform policies in other countries (Pollitt and Bouckaert), the French orientation was weaker in aims and scope and was strategically preferred to more comprehensive, more public reforms of structures and rules that would have been more costly for elected politicians. However, the purposes and the effects of this strategy were of paramount importance for the French administrative system. The introduction of the RMS expressed the change in general objectives on state expenditure. It was a matter of seeking to reduce the drain on GDP of public administration, and particularly of the state, especially in terms of the wage bill. Changing the method of determining wage growth transformed the way in which civil servants’ purchasing power was guaranteed. Until the 1970s, it had been a question of guaranteeing year-on-year maintenance of the purchasing power of the civil service salary point: now it became merely a matter of maintaining, in inflation-adjusted francs, the overall amount of the wage bill for a workforce viewed as unchanged in size. Thus, the adoption, in 1985, of “RMS + GVT” strategies no longer ensured a general rise in all wages nor an annual progression by salary point value, previously viewed as a vested right. The concept of average purchasing power was imposed, and broke the
automatic wage increase mechanism. Between 1982 and 1988, therefore, the terms of civil service wages policy were profoundly challenged, with the ending of indexation, the public display of a new method for calculating growth in the wage bill and the steady reduction of the general increase negotiable annually with civil servants. From this point on, the RMS instrument, formerly used within the Keynesian framework of an incomes policy, was at the service of a neoliberal policy of retrenchment and of a strong challenge to the historical arrangements of the French administration. Focusing on the instrument provides evidence that major administrative policy departures can occur through other routes than big, highly public reforms.

This brings us to a last, important argument concerning the temporal dimension of policy changes (for a broad view, see Pierson 2004). Tracing the historical life of a low-profile instrument permits us to bring to light sequences over time other than those relating directly to public policies. During the 1980s, a “low-profile” tool for staff expenditures was developed as an alternative to the development of a “public” policy with retrenchment objectives. It acted as a cross-cutting constraint on the emergence of more structural, managerialist or drastic cut-back initiatives on the French administration. To some extent, the excessive focus on the RMS instrument and its efficiency limited – for a while – the Budget Directorate’s quest for managerial tools or structural reforms. This confirms the view, supported by Orren and Skowronek, that an “institutional order” is made up of separate, interacting institutions that “juxtapose different logics of political order, each with their own temporal underpinnings”, “operating according to distinctive ordering principles” (Orren and Skowronek, 320). These various elements “structure the passage of time – the sequences and cycles, the changes and lulls – at varying rates” (ibid.). The case of the RMS has illustrated that the dynamics of the low-profile instrument had its own logic and timing, which affected the parallel logic of public administrative reform. Both have their specific stories and narratives, but I have chosen to emphasize how the instrument approach can help to trace new paths of institutional development. By pointing up the importance of different temporalities in the government of bureaucracy, we suggest that the interplay and possible overlap between the dynamics of instrument and the dynamics of public policy need further exploration, in order to pinpoint the multiple forms of retrenchment that affect bureaucracy.
VI. References


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Governing Standards: The Rise of Standardization Processes in France and in the EU

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There is practically no economic activity nowadays that is not framed, whether partly or totally, by standards. Their extension is closely related to economic globalization and the transformation of regulatory processes at the international, regional and national levels – even though historically they often precede these phenomena. Our interest in standards is the result of their influence on economic activities along with the fact that their underlying logic resonates with political and economic processes that can be observed worldwide.

According to the International Organization for Standardization (ISO), a standard is a “document established by consensus that provides, for common and repeated use, rules, guidelines or characteristics for activities or their results, aimed at the achievement of the optimum degree of order in a given context”. Where a good, a service or a procedure is concerned, there is almost always at some level – national, European or international – a document defining the form it should take. Standards enable them to circulate, to be compatible with other goods, services or procedures, or even to be made predictable in nature. Hence, the strengthening of free-trade is favorable to their development.

Standards can fall under two categories: *de jure* and *de facto* standards. A *de jure* standard is a written document establishing technical specifications for goods, services or processes, resulting from a consensus, and whose application is voluntary. It is designed to fulfill coordination functions through production (by giving producers information useful in designing new products) and exchange (by making explicit the specified properties of a product). A *de facto* standard results from a unilateral act and emerges through the mediation of market processes: “the dynamic in which purchasers on a market take up particular products finally leads to one or more lasting standards being selected from among diverse possible alternative technologies.” (Lelong & Mallard, 20) The software and hardware architecture of PCs are an illustration of a *de facto* standard, while the GSM protocol in telecommunications is a *de jure* standard, since it “was drawn up as a result of collective activity within the framework of a standards institute, in which the leading actors in the telecommunications sector took part. Its appearance has actually involved coordination mechanisms alternative to, or additional to, the dynamic of the market alone.” (ibid., 21) In what follows, we shall be mainly interested in *de jure* standards.

As public policy instruments, standards1 present several characteristics. Although often highly technical in nature, they are actually the product of a balance of power between economic actors (competitors or subcontractors) as well as between economic actors and NGOs (such as consumer or user groups) within civil society. Thus, they contribute to a shift in rulemaking from the state to civil society. The legitimacy of standards derives from a scientific and technical rationality (which helps to neutralize their political significance) along with a democratic rationality (through their negotiated dimension). Thus, they offer the appearance of depoliticization (Jobert). In other words, the development of standards forms part of a trend that sees public authorities delegating to private organizations the enactment of rules that, even if they do not have the force of law, are no less binding in nature. This movement is all the more legitimate, seemingly, because it is surrounded by references to the democratic nature of the process of drawing up standards and to the scientific and technical data on which they are based. In a way, standardization could amount to a pacified decision-making process, since it leaves the matter to the interested parties, without political intervention. The terms “technological democracy” (Hawkins) or “technical diplomacy” (Cochoy) have been used, critically, to characterize this process.

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1 Unless otherwise specified, the term standards will from now on apply solely to *de jure* standards.
Yet, our interest in this category of instrument results from their inscription within a regulatory framework. In this respect, France and the EU offer the opportunity to compare the role of standards in two very different polities, both moving towards a form of regulatory state. What does the rise of standardization processes tell us about the nature and content of such a state? Apart from issues of depoliticization and incentive rather than normative-based instruments, is there something else which can be learned from the study of standards? I want to argue that this is the case on four accounts: re-regulation, intentionality, policy-capture and the management of complex issues.

The development of standardization processes can contribute to a form of “re-regulation” (Majone 1996). Even though part of a deregulation movement, standards simultaneously contribute to a proliferation of rules framing economic activity. Thus, according to the French Standardization Association (AFNOR\textsuperscript{2}), a standard “is a public policy tool that acts as a supplement to regulation and a reference point for opening up public markets and promoting their transparency.” While the European Parliament specifies that “standardization can constitute an effective, generally acceptable and readily adaptable supplement to legislation, and can in some cases, if given a clear legal framework, provide an alternative to binding rules and regulations”\textsuperscript{3}.

In fact, standard-setting is a clear case of “meta-regulation”, in which “direct intervention and enforcement are replaced here with allegedly lighter demands on economic actors to institutionalize processes of self-regulation.” (Jordana & Levi-Faur, 7): allegedly, since in fact this type of regulation often proves to be as intrusive as direct intervention aimed at monitoring and enforcing competition. Furthermore, this trend is congruent with the advent of the regulatory state, and such notable features as “the proliferation of new mechanisms and techniques of regulation, meta-regulation, and enforced self-regulation.” (Levi-Faur & Gilad).

The question of intentionality is central to the study of instruments. As the two cases presented in this paper will make clear, standards are instruments that “open new perspectives for use or interpretation by political entrepreneurs, which have not been provided for and are difficult to control, thus fueling a dynamic of institutionalization” (introduction to this issue). Hence, they contribute to stabilizing collective action, by making the actors’ behavior more predictable, but simultaneously they offer new opportunities along with new resources for actors to pursue other goals. At the European level, standards were initially conceived as an instrument of intergovernmental politics destined to quicken the pace toward the achievement of a single market; but they progressively opened perspectives for a more integrated approach and became an instrument of supranational governance for the Commission. In France, following a series of crises which revealed major dysfunctions within the state, along with a restructuring of the state in a context of economic globalization and European construction, administrative authorities saw the use they could make of standards in regulating highly complex and interdependent domains, or in promoting French economic interests on a wider scale. Thus, standards became an instrument of state transformation. In both cases, these developments were not initially intended. But the standardization process opened perspectives which public administrations seized to uphold their interests.

The study of standards also enables us to revisit the thesis of the ‘policy capture’ of decision-making processes by economic interests, since standardization explicitly provides for industry representatives to participate in drawing up rules that concern them. This can be seen as an

\textsuperscript{2} Association française de normalisation.

\textsuperscript{3} Preamble to Resolution adopted 12 February 1999.
answer to the growing problems public authorities face in obtaining detailed knowledge of the activity they wish to regulate. Yet, there is a difference between, on the one hand, a situation where lobbies negotiate measures favorable to them directly with French public authorities or the “continued institutionalization of interest intermediation” by the European Commission (Mazey & Richardson, 92) and, on the other, the constraint for lobbies to negotiate a compromise with other interest groups under limited possibility for public arbitration. Such a development, in fact, strengthens the public authorities’ situation, since it protects them from most of the pressures but still gives them the capacity to have a say on the outcome of negotiations.

Finally, standards occupy a special place in relation to the crisis of legitimacy affecting public intervention, the complexity of the issues tackled and the theme of accountability in public policy – and they raise new questions of legitimacy, efficiency and accountability.

“Governments as political actors can use resources from both the public and private sector to bolster their regulatory goals and pursue their objectives. The willingness to delegate important policy-making powers is in large part a recognition that regulation is not achieved by simply passing a law, but requires active involvement of regulated firms. Because regulators lack information that only regulated firms have, firms themselves are acting like governments, by establishing regulations and codes of conduct in economic, environmental, and social areas. The growth of such business self-regulation is difficult to equate with the usual definitions of regulation perceived in terms of government activity, since it crosses the boundaries between providing a mix of public, private, or collective goods.” (Egan, 6)

This paper will show that standardization processes play a different role in regards to the strains and constraints exerted upon French and EU regulatory processes. In this respect, standards are not neutral devices but instruments that produce specific (and sometimes unintended) effects, depending on the regulatory framework within which they take place.

The first section of the article begins by constructing the object ‘standards’. The second section then reports on the place of standard-setting in the European integration project. The third section will focus on France and the recent growth of standards in service activities. The conclusion will attempt to distinguish the varying status and effects of standard-setting in different regulatory contexts.

I. Defining standards

Standards share four major characteristics: they are the result of a work carried out among interested parties, they are based on scientific and technical data, they rely on consensus, and their application remains voluntary.

1) The concept of interested parties is extremely variable, since it may come down to just a given sector of industry or include consumer and user representatives, public authorities and experts. In his history of standardization in France, Cochoy distinguishes between a period when industry alone invested in standardization and a period when, through the impetus of AFNOR, consumers joined the committees, starting a profound shift in the areas covered by standards. At EU level, European standards institutes provide for the participation of various representatives: from trade unions, consumer groups, local governments, national government officials, individual firms and trade associations. Standard-setting thus constitutes a procedure in which the participants have formally the same rights and the same influence. However,
there are generally profound inequalities between them in terms of access to information. Furthermore, scholars of standardization processes stress that chairing or acting as secretary to a standardization committee offers a strategic position, from which it is possible to determine both the agenda and the pace of work – two defining resources in influencing the final outcome.

2) Even though the process of standardization brings together interested parties, their exchanges are based on scientific, technical or experimental data (Joerges et al. 1997). Jacobsson (40) stresses that standardization relies on expert knowledge: “standardization is closely linked to expertise and is usually motivated by the view that there are some persons who know best. […] Reference to expert knowledge is often used to give standardization legitimacy.” This is evidenced by the fact that participants in expert committees are nominated for their knowledge in the field concerned. “The committees provide a forum for those with considerable knowledge in a particular field to work together.” (Egan, 143) However, there is still a very wide variation between the participants’ levels of expertise and – even more so – their resources to mobilize scientific and technical data: it is very often the largest firms, which have their own interest in standardization, that provide the data on which the discussions are to be based, while SMEs more rarely have the capacity to take an active part in standardization work and NGOs are often in a dependent situation.

The importance of scientific and technical data, apart from leading to a strong distinction between participants, also acts as a formal constraint (Mallard). Although a standard stems from a compromise based on political, economic and social criteria, only its technical elements are made visible. Putting these technical elements forward in the discussion allows the exclusion of other criteria from the debates or obliges such criteria, once they have become the object of a compromise, to be expressed in technical terms. This acts as a constraint essentially at the development stage, notably for those of the participants who do not have a mastery of all aspects or are not in a position to make counter-proposals. Once the standard is put into practice, on the contrary, industry actors are able to reintroduce some flexibility in interpreting the technical data (Majone in Egan).

3) Consensus is a core principle of the standardization process. All documents and all observers refer to it, the latter in order to emphasize its ambiguous nature. Consensus is most often understood negatively: it is the opposite of voting; it does not necessarily imply unanimity. In other words, to use an ISO definition, it is a “general agreement characterized by the absence of definite opposition to the essence of the subject from a large part of the interests in play and by a process of seeking to take into consideration the views of all those concerned and to reconcile possible but divergent positions.” Therefore, consensus occurs when, at the end of a process in which the different parties have been able to express their expectations and integrate them into a proposed standard, no participant is openly opposed to this proposal. As long as one party is opposed, the approach cannot be carried through to its end; this very often results in processes that extend over several years and require long negotiations. This is because standard-setting is not a repetitive, iterative game, but a unique one: once the standard has been adopted, it becomes irreversible. The participants cannot adopt a strategy of short-term loss or sacrifice for a deferred gain or a time-shifted ‘quid pro quo’ (Egan, 144). The result is a document that links the interests of the various parties and is binding on them all, following a participatory process that establishes the standard’s legitimacy: “writing a standard is much more than an activity for producing technical information and specifications: it contributes actively to the convergence of the socio-technical networks that constitute the standard’s coordinating framework.” (Mallard, 26)
4) The final characteristic of standards is that they are presented as voluntary. Here, we are in the realm of what Morand calls “incentive acts”, i.e. “acts that direct behaviors without making them compulsory” (162). Economic actors are not obliged to comply with a standard, and they are not subject to any sanction. Standardizers “must convince potential adopters that they would benefit from following the standards.” (Brunsson and Jacobsson, 13) This can be contested, on three accounts. First, industrials must often show that their product, service or activity conforms to the regulatory requirements or meets the quality and safety criteria: EU directives refer to standards in this respect; but industrials can always choose to demonstrate compliance through other means. Second, in some cases, regulation explicitly references consensus-based, privately developed standards as basis for gauging compliance with the regulation. Third, regulation can even make standard-compliance compulsory (the French normes d’application obligatoire).

Furthermore, since many standards are accompanied by markings (‘NF’, ‘CE’) that certify they observe a set of conditions, since they may be required by the authorities or requested by potential customers, and finally since they are part of the circulation of goods on increasingly extensive markets, the incentives to become involved in standard-setting are strong. While failure to conform to provisions contained in a standard can lead to a firm’s certification being withdrawn – with consequences potentially more costly than a fine. Moreover, a judge can refer to a standard when assessing an industrial’s liability. Finally, some standards acquire force of law at the international level, such as Codex Alimentarius’ standards, recognized by the Sanitary and Phytosanitary agreement of the World Trade Organization (WTO): countries are not compelled to respect these standards but then risk facing litigation within the WTO.

Contrary to what these four features could indicate, standardization is neither a neutral nor a peaceful process. But it offers a specific framework for solving conflicts. The diverging interests, tensions and conflicts, are settled through negotiations and on an interpersonal level. “In general, […] participant accounts of such committees typically emphasize compromise, teamwork, and sharing information, rather than how these bodies deal with conflicts.” (Egan, 143) While it is obvious that these committees are characterized by profound resource inequalities, it is equally obvious that the dominant actors have no interest in taking advantage of their position to impose their views on the other participants. In taking this approach, they have to enter into information-sharing, take into account requests, and seek compromise, which allows them to increase the value of their resources while gradually involving the other parties. This is a long, exacting task, in which any attempt to rush decision-making may lead to blocking. In fact, this is very often the case. However, it can be hypothesized that these are a powerful learning tool for participants, who learn to work together (Kessous, 114).

Consequently, the constraining nature of a process that obliges the various participants to take into account the interests of the others may counter the partially founded criticism that sees these committees merely as parodies of “technological democracy”, in which powerful, perfectly organized economic interests (industrial or national) manage to impose their point of view under the guise of consensus.

In the area of standardization “[…] all actors […] do not merely try to seek confirmation for previously formed views, but frequently enter committee discussions without clear preferences, or are prepared to change their positions. This does not mean, however, that positions and interests play no part whatsoever in committee negotiations. Nevertheless, in a significant number of cases, the main focus was upon the discussion of a problem where solutions had to be found without those participating being able to fall back upon pre-formulated positions. Moreover, […] comitology operates as a
long-term oriented process of working and learning, that has a potential, over time, to condemn and overcome individual attempts on the part of participants to impede reliance upon valid knowledge.” (Joerges 1999, 320)

II. The European ‘New Approach’

On 7 May 1985, the Council adopted a new approach to technical harmonization and standards (Resolution 85/C 136/01). Up to then, technical harmonization had been covered by directives or by the mutual recognition procedure. But the technical complexity of the subjects concerned, the difficulty of bringing all countries into agreement, and the single market perspective encouraged the European authorities to take recourse to standard-setting.

The 1985 Council Resolution is based on the conclusions approved by the Council of 16 July 1984, which read: “The Council believes that standardization goes a long way towards ensuring that industrial products can be marketed freely and also towards creating a standard technical environment for undertakings in all countries, which improves competitiveness not only on the Community market but also on external markets, especially in new technology.” The objective, therefore, is to bypass obstacles to free movement.

The 1985 resolution was supplemented by another resolution on a global approach to conformity assessment, dated 24 July 1989. In the context of this new approach, European legislation became responsible for establishing the essential requirements to which products must conform, while the European standards institutes (CEN, CENELEC, ETSI) were charged with drawing up technical specifications in order to ensure conformity to defined thresholds or levels of protection.

This wider use of standards comes at a particular moment in European history. This can be observed on two accounts.

Firstly, several writers associate the development of standards with the limits of the European integration project from the 1980s onwards. Thus, according to Brunsson and Jacobsson, the choice of standards rather than directives stems from the difficulties encountered by European institutions in imposing compulsory measures. The recourse to standards is therefore a response to the absence of any constraining means at the EU’s disposal to accompany its regulatory activity – an absence for which the incentives linked to application of standards can compensate. Other authors suggest that the use of standards is a consequence of the Commission’s difficulties in arriving at agreement between the member states in a number of fields. In support of this thesis, they cite the delay in drawing up directives for the 1992 single market.

“This creation of a single market by 31 December 1992 could not have been achieved without a new regulatory technique that set down only the general essential requirements, reduced the control of public authorities prior to a product being placed on the market, and integrated quality assurance and other modern conformity assessment techniques. Moreover, the decision-making procedure needed to be adapted in order to facilitate the adoption of technical harmonization directives by a qualified majority in the Council.”

4 The European Committee for Standards, the European Committee for Electrical Standards and the European Telecommunications Standards Institute

Secondly, the recourse to standard-setting is an intrinsic feature of the rise of a European “regulatory state” (Majone 1994; 1999). The same reasons that played a part in that rise – budget constraints, bureaucratic and economic interests, poor credibility of intergovernmental arrangements, the highly technical nature of regulatory policy making (Majone 1994, 92) – account for the success of standards. The same motives that led the European institutions to delegate powers to independent agencies also apply: cognitive factors (lack of expertise and competence), reducing the costs of decision making, and blame avoidance or blame shifting (Majone 1999, 3-4). In other words, standard-setting allows the public authorities to achieve credible political commitments, which take into account the phenomena of political and economic interdependence among nations and, at the same time, allows the behavior of multiple actors to be guaranteed other than by command-and-control techniques (*ibid.*, 5).

II.1 The invention of the New Approach

The New Approach is based on the distinction between essential requirements and technical specifications. A ‘New Approach directive’ applies either to a broad, sufficiently homogenous range of products or to a horizontal risk; most often, it covers the risks linked to a family of product. ‘Essential requirements’ define the results to be achieved or the dangers to be dealt with, without going into the content of the technical solutions needed to attain this (they are functional or performance standards, as opposed to prescriptive or specification standards: Majone 1996, 112). This avoids having to regularly amend directives to take account of technical progress, since a product’s conformity is not assessed on the basis of the state of the art at a given time.

This distinction between essential requirements and technical specifications is not self-evident. It is not easy, at the outset, to conceive objectives without simultaneously providing for the means to achieve them. Furthermore, a move towards harmonization justified only on economic grounds could easily have been contested by national authorities and businesses anxious to preserve their own particular features.

On both accounts, the response was to put forward health and safety*. More precisely, the concept of risk became a vehicle for the setting of standards. It allowed broad objectives (reducing or eliminating all risk linked to the use of a product) to be laid down, and off-loaded onto the standards institutes the task of arriving at documents that, while integrating health and safety imperatives, also contributed to technical harmonization at the European scale and the competitiveness of European firms at the international level. This approach thus offered the advantage of leading more easily to an agreement between the Member States and transferring the constraints of negotiation onto the standard-setting process. In dissociating general objectives from the means of reaching them, the Council wanted to avoid technical considerations (reflecting in fact economic, political or social interests) disrupting the terms of requirements on which all countries must be able to agree. The pay-off for this is a relative vagueness in the objectives: although the Council insists that requirements should be “worded precisely enough in order to create, on transposition into national law, legally binding obligations”, directives often state very general objectives.*

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6 Similarly, in France in the immediate post-war period, first efforts towards standardization related to the gas industry because of its dangerous nature, among other reasons (Cochoy).

7 The ‘New Approach directives’ are based on Article 95 of the EC Treaty and adopted under the codecision procedure provided for in Article 251 of the EC Treaty. It should be borne in mind that according to Article 95, the Commission’s proposals on health, safety, environmental protection and consumer protection must take a high level of protection as their basis. Thus, a safeguard clause is also provided for.
The New Approach rests on several pillars, three of which should be mentioned here.

The first concerns standards institutes: CEN, CENELEC, and later ETSI must have suitable staff and infrastructure to carry through the setting of standards. The Commission negotiated mandates with them to make their role official, define their tasks and set out the principles to which the European authorities are dedicated.

A second pillar concerns “the association of public authorities and interested circles (in particular manufacturers, users, consumers, unions)”. This element, as well as stemming from the fact that legitimacy is at stake, reflects the Council’s concern to extend responsibility for drawing up standards to the largest number of interested parties in order to ensure their efficient implementation. This pillar plays an essential role, among other things, in distinguishing the type of regulation promoted by the EU from traditional forms of corporatism in the different member states (Ladeur, 157).

The third pillar relates to methods of monitoring standards: this is the object of the 1989 Council Resolution on a global approach to assessing conformity, supplemented by two Council decisions establishing detailed specifications for testing and certification procedures and providing guidance for use of the ‘CE’ marking. Conformity is assessed on the basis of the manufacturer’s internal activities for monitoring design and production; examination by an outside body of the type, design or products; approval by an outside body of overall quality assurance systems.

The New Approach, nonetheless, faces an important limiting factor: there are markets in which the actors are not interested in setting standards. In this case, a directive has little chance of leading to technical specifications; two examples are building products and electrical plugs. As the Commission points out, “[a]cceptance of standardization is related to the market relevance of standards, and not only to the participation of the parties concerned.”

Therefore, if it does not want to go unheeded, any directive that delegates the definition of means and methods of implementation to the standard-setting process must take into account the state of the market and of technological advances.

II.2 The debates over European standard-setting

Early in the 1990s, during the process of completing the single market, the Commission expressed reservations about the efficiency of standardization and suggested some modifications. During the years that followed, these reservations gave way to debates, in particular between the Commission, the Parliament, and the standards institutes. These debates took place in the ongoing tension between intergovernmental and supranational modes of decision-making within the EU (Stone Sweet and Sandholtz). Even though the Council and the Parliament, on the one hand, and the Commission, on the other, all agreed on the need to reinforce the role of standards, the latter saw these as a means to achieve more effectively and rapidly a single market, while the former aimed to maintain standard-setting within an intergovernmental framework of negotiation. While the Commission intended to promote standards as instruments of supranational governance, capable of bypassing national obstacles to the free movement of goods and services, the Council and the Parliament considered that standards could improve intergovernmental negotiations, since they relied for the most part on technical arguments.

The Commission’s reservations were of three types: delays in the standardization process, direct representation of interests and monitoring standards compliance.

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The main criticism addressed by the Commission concerned the delays, which were judged too long in the perspective of rapid harmonization. The Commission attributed this to the procedure and the concern to include the largest number of interested parties while still favoring consensus, instead of using qualified majority voting at certain stages. Several actors reproached the Commission for its failure to appreciate the conditions in which standards are drawn up. The Commission nonetheless remained steadfast in its criticisms, arguing that the problems lay in the institutes’ preference for collegial functioning over project teams when drawing up proposals, in the length of the consultation and adoption procedure for standards, and in the obligation to transpose European standards to national level.

The institutes undertook to reduce the delays: from 45 to 28 months for ETSI, from 135 to 75 months for CEN; the result was an appreciable increase in the number of standards produced annually. Nonetheless, the Commission maintained that the delays remained too long and therefore suggested again that qualified majority voting be introduced at a stage before the final adoption of a standard. The Council and the Parliament took a stand against this proposal. This gave them the opportunity to reaffirm the principles on which the legitimacy of standardization process was based.

The Parliament “opposes the use of formal voting at an early stage of standardization activities with the objective of speeding the process up, since the European standardization process is based on mutual agreement, which in turn safeguards the participation, involvement and confidence of all parties.” (Article 9 of Resolution on the Report from the Commission to the Council and the European Parliament ‘Efficiency and Accountability in European Standardization under the New Approach’.)

The Commission clearly wished to use standards as a means of achieving a single market with shorter delays. It could rely on ETSI who, in the field of new technologies, was able to develop in a rather short time lag standards which were then used to uphold the move toward a single market, for example with the GSM standard in telecommunications (Sandholtz, 152). But the two other institutes were more time-consuming.

Time is an inherent feature in the process of standardization. Delaying or blocking may reflect a deliberate strategy on the part of the countries chairing or providing secretarial services for a technical committee. Extending involvement to the largest number of interested parties also increases the “risk of deadlock and stalemate” (Egan, 165): as long as one participant rejects all or part of a proposed standard, it cannot be ratified. Hence, either the participants do not manage to agree given the number of vested interests, or some have an interest in delaying or even preventing the appearance of a standard long enough to be ready (Kessous).

On a more general level, the process of standard-setting is based on the interplay between reputation, credibility and the ability to generate coalitions of interests (Foray in Egan). Capacities for argument and belief in the participants’ competence and integrity are the determining modalities of this process, along with the networks in which the participants are involved. Consensus-seeking imposes an obligation to adopt procedures different from the ones

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10 The differences between the three standards institutes relate largely to the nature of the areas they cover. ETSI works especially on intellectual property rights and related technologies, CENELEC relies heavily on existing or pending international standards, while CEN is concerned with new fields like ergonomics, food irradiation and environmental management, which are more time-consuming because of the need to innovate (Egan).
used in deliberation, where the objective is in gathering a large enough majority. The standard-setting approach aims at bringing together the support of the different participants gradually. This process is easier in situations of “copinage technocratique” (Majone 1994, 91) – where the participants share interests and cognitive frameworks. Things are more laborious when it is necessary to create a climate of trust before entering into negotiations.

“[E]ach standard is by no means the best possible solution from a given set of alternatives, but rather reflects the complexity of the environment and the behavior of players to decipher and order the environment to produce some form of coordination. The outcome of the standardization process depends partly on the pay-off structure but also on the organizational dynamics, norms, and synergies within the standards bodies. […] When multiple interests are involved, coordinating costs rise and the free-rider problem can be significant. Recognizing that by the time the committee is convened, participants often have vested interests that may be incompatible or well entrenched, committees, like markets, may also be imperfect coordinating mechanisms. Despite efforts to promote trade liberalization by delegating to private standards bodies, the shift in regulatory strategy did not fully achieve the required policy outcomes.” (Egan, 209)

Relatively long time-scales are therefore inherent in the standardization process. This is acknowledged by the Council and the Parliament, but clearly irritates the Commission.

Alongside a reduction in the delays, the Commission also proposed that national representation be challenged as the sole source of legitimacy in the standardization process, by opening participation to interested representatives in Europe sitting directly and no longer being appointed by national standards institutes – which would result, among other things, in improved participation for certain interest groups.

“The acceptability of standards depends to a large extent on the full involvement of all relevant interested parties. Societal stakeholders’ [stakeholders represent the interests of the consumer, health and safety and the environment in standardization] participation in the standardization process has a strong accountability dimension. It reinforces the quality of the consensus and makes the standards more representative.”

Once again the Commission was clearly trying to bypass the national level of representation, both in order to reinforce direct representation of stakeholders at EU level and to progressively reduce the influence of member states on the standardization process. Not surprisingly, the Council and the Parliament did not go along with the Commission on this either. The Parliament pointed out that “the efficiency and transparency of the standardization process is not the responsibility of the European standards institutes alone but also of national governments, the Commission and national standards institutes, and is consequently the result of their joint efforts”. Nonetheless, it indicated the need to improve representation of consumer and environmental protection organizations at the national and European levels. In 2002, the Council asked national institutes to “ensure the involvement of such parties in the process at national level”.

The third and final reservation regarding European standard-setting has to do with the monitoring of standard implementation. Depending on the ways that notified bodies work in vari-

ous countries (more than 1 000 bodies had been notified by 2002), standards compliance monitoring does not lead to the same degree of strictness; it may even enable hidden protectionism to be reintroduced in various forms. The member states are responsible for designation and notification as well as application of the criteria defined in the New Approach directives to evaluate a body’s capacity to carry out the conformity assessment procedures. Yet, there is a lack of transparency concerning the criteria and procedures applied for the assessment and surveillance of notified bodies, and this encourages “suspicions about uneven levels of implementation” and undermines confidence in the certificates issues by notified bodies. Consequently, the Commission stressed the need to arrive at a homogeneous system of designating bodies, both “to ensure the safety of products and to avoid restrictions on the free movement of goods that could arise due to shortcomings in relation to the competence, impartiality, etc. of notified bodies” and “to allow notified bodies to compete on a level playing field”. It also argued that the supervision of notified bodies should be strengthened and a clearer separation achieved between designating authorities, accreditation bodies, organizations assessing conformity and market supervisory authorities – since confusion between these functions is a potential source of conflicts of interest.

In this strategy, the laboratories responsible for certifying the conformity of products to standards for the whole Union occupy a special position.

“...In order to leave a broad initiative to businesses and to reduce costs, the laboratories – previously sole judges on their national market – are henceforth in competition with all the laboratories in the Community; moreover, each Member State is able to notify several of them, and recognition has been granted to the results of tests in different notified laboratories. The issue at stake in this mutual recognition is to avoid protectionism by standards being replaced by protectionism by the laboratories. The latter are therefore in an ambivalent position: guarantors of the sound application of European law, they are also subject to market pressures. This competition between laboratories conflicts with the quest for homogeneous application of technical tests – a condition for equitable competition, with each business able to go to the laboratory that interprets the standard most favorably for its products.” (Kessous, 94)

Consequently, the monitoring of standards is one of the chief factors currently limiting the success of standards.

However critical of the standard-setting process, the Commission was not deterred from extending the scope of standards to services. This is because the Commission fully supports any approach that may usefully supplement its regulatory action, in the perspective of an ever-more effective single market.

The standards institutes, meanwhile, designed new documents with more flexible status. Workshop Agreements, in particular, are the outcome of consensual work between a large number of parties; but they are not subject to the publication procedure or to a vote by national representatives: consequently, they are open to a larger number of directly interested parties (without having to go through the national standards institutes) and may be presented more rapidly. These Workshop Agreements are justified as a means of reducing the gap between, on the one hand, industry imposing its de facto standards and thus reducing the participation of interested parties and, on the other, the process of European standard-setting.

12 Commission Communication of 7 May 2003.
Workshops are more flexible structures than technical standards committees, benefiting from greater openness and from consensus. Other more flexible documents such as guides, technical specifications and technical reports, are designed to establish *de facto* standards. In the long run, all these documents are intended to become *de jure* standards, based on their efficiency and the economic actors’ capacity to work with them. A Workshop Agreement may thus propose several competing solutions, leaving the market to select one; it may also simply provide information.\(^\text{13}\)

The Council approved this development in March 2002. On this occasion, it stressed the necessity to relate these new documents to market needs and to convert documents that are not *de jure* standards into *de jure* standards. Commission, Council and Parliament united around the idea that it is important to enlarge the field of standard-setting, as much in order to improve the functioning of the internal market as to contribute to various policies and actions.

**II3. The standardization process in the European political integration project**

The New Approach does not extinguish European standard-setting – far from it. More than three quarters of European standards do not come under a directive but result from a market initiative. Nevertheless, all these standards and other more flexible documents are gradually forming a type of instrument based on consensus-seeking between the interested parties by privileging technical, scientific or experimental data. These principles resonate with the other founding principles of the European integration project: consensus and the role of science in the decision-making process. The Council has stressed that “standards should have a high degree of acceptability as a result of the full involvement of all relevant interested parties in the standardization process and that standards should be coherent with each other. The Council also emphasized that standards should be based on sound scientific research”.\(^\text{14}\)

Through the scope of standards and their extension to new fields, the European standardization process acts as a powerful harmonizing factor.\(^\text{15}\) Furthermore, it forms part of a specific process of regulation, based on delegation by public authorities to private actors of responsibility for drawing up binding documents. These documents’ robustness derives from the fact that they act as strong incentives while leaving some operators the possibility to innovate. In other words, observing a standard amounts to compliance with regulations, but with the proviso that an economic actor can always come up with another way of conforming to the regulations.

Consequently, we must wonder about the nature of a political system in which the rules are partly of private origin, based on consensus, and voluntary in application. The European Parliament itself points out that standards may in certain circumstances constitute an alternative to legislation. Whilst the Commission situates the standardization process within the context of thinking on governance in Europe:

> “Current reflections on governance in Europe focus on alternative forms of regulation and on democratic legitimacy and expertise. Today, the Commu-

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\(^\text{13}\) New products were used in this way in the Directive on electronic signatures (1999/93/EC), which authorises the Commission to adopt technical specifications drawn up by CEN and ETSI.

\(^\text{14}\) Commission Report of 26 September 2001

\(^\text{15}\) In 2003, according to the Commission, trade in products from just the main sectors regulated by “New Approach” directives exceeded €1,500 billion a year.
The New Approach is considered a well-implemented coregulatory model.”

Thus, it says, the New Approach is a model of co-regulation.

“Co-regulation combines binding legislative and regulatory action with actions taken by the actors most concerned, drawing on their practical expertise. The result is wider ownership of the policies in question by involving those most affected by implementing rules in their preparation and enforcement. This often achieves better compliance, even where the detailed rules are non-binding.”

Hence, the task of legislation is to set objectives that can be attained and that remain stable. The essential requirements are those around which “no compromise is possible”, states an internal Commission document (The New Approach: quo vadis?). By referring the definition of technical specifications to the standard-setting process, the legislature is no longer the prisoner of experts or even of interest groups working behind the scenes. It can thus reduce the risk of ‘policy capture’ by organized interests. But the objective is also to reduce the gap between the EU and public opinion, pointed out in the White Paper on Governance, by opening up the decision-making process to a larger number.

In these conditions, the Commission proposes to enlarge the field of standards to the general safety of products, an approach “which reflects the contribution standards can make to the proper functioning of the internal market and the protection of consumer health and safety.” Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 thus provides that “[a] product shall be presumed safe as far as the risks and risk categories covered by relevant national standards are concerned when it conforms to voluntary national standards transposing European standards, the references of which have been published by the Commission in the Official Journal of the European Communities” (Article 3(2)).

The Commission also suggests the use of new documents in Community policies, whenever consensus has to be reached within a relatively short time. This, however, is conditional on certain principles being observed.

“The Lisbon European Council stressed that business and citizens need a regulatory environment which is clear, effective and workable in a rapidly changing global market place, and that formal regulation is not always the answer. Alternative, complementary approaches can sometimes provide more effective solutions. The challenge is to ensure high levels of protection while avoiding over-regulation. The New Approach to technical harmonization and standardization is a model that combines these two requirements and the Council invited the Commission to examine whether the New Approach can be applied to sectors not yet covered as a means of improving and simplifying legislation wherever possible.”

However, in 1985, it was possible to identify sectors in which essential requirements could be dissociated from technical specifications, and, in doing so, to take the view that, in other sectors, the protection of the public interest made it necessary for legislation to impose technical

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specifications. Nowadays, with the rapid development of technologies, it is increasingly difficult to impose methods or techniques that will defend the public interest. The New Approach thus faces the challenge of being applicable to a whole set of objects that go beyond its initial framework.

III. The standardization process in France

Like the European case, the use of standards in France is a response to the difficulties encountered by the state in ensuring its tasks are carried out, whether they involve drawing up regulations, imposing them on all the actors in society, guaranteeing and monitoring their implementation or measuring their effects. Furthermore, standards have developed in ways that situate them within the scope of Bruno Jobert’s analysis: they are part of “a new mode of production of public policy no longer based so much on the imposition of norms created by state actors but on a systematized transaction between the different parties affected by the policy […] Legitimacy is no longer sought in the policy’s conformity to central values but in the smooth functioning of the procedures governing the interaction.” (see introduction to this volume) Standards constitute, as it were, the culmination of this process, a form of depoliticization of public policy.

Unlike the European standardization process however, which, from the outset, has set out the principles on which it is based, French standard-setting seems to be more part of a silent revolution19. The importance of standards still goes unrecognized in a number of sectors, disappearing behind the authorities’ stated desire to maintain a capacity for intervention. Even though ministries encourage increasing use of standards in the sectors for which they have responsibility, official discourse continues to stress regulatory action: the food sector provides an illustration of this. In parallel, the authorities see standards as an efficient instrument of economic policy, which also enables some of the constraints of Europe to be circumvented: the growth in AFNOR’s role is highly instructive from this point of view.

However, this dual instrumentalization conceals questions about the significance of standard-setting as a procedure: while the principles of consensus, participation and use of expertise play a major role in legitimizing European standards, they do not occupy as important a role in France. Here, in contrast, the chief stakes in standard-setting lie in the pooling of information between a grouping of diverse agents who have worked together or will have to do so subsequently. In that respect, the procedure for developing standards in France is far closer to a process of delegating the regulation of an activity to social actors – with public authorities still in control – taking into account the interdependencies that bring the different actors together to draw up the rules by which their relations will be governed.

III.1 Standard-setting and regulation by the private sector: the case of food products

The food-production sector is characterized by the increasing role of private sector agents in creating and enforcing rules, notably in the management of food health safety. Standards occupy a determining place in this movement. Furthermore, the crises and scandals related to food safety during the 1990s did not alter this trend but, on the contrary, encouraged public authorities to further the delegation of power to private actors.

19 The conditions under which standard-setting activities – entrusted to the AFNOR – must be carried on are laid down in Decree No 84-74 of 26 January 1994. In certain circumstances, the application of a standard may be made compulsory by the authorities – thus giving the standard regulatory status.
In 1983, the Law on Consumer Protection reaffirmed the need to ensure the safety of products for human health, strengthened the monitoring powers of the state services, and required firms to implement self-monitoring procedures. Given the lack of resources to ensure conformity to the rules enacted, as well as a preference for industry-led monitoring systems, the public sector defines objectives and thresholds, leaving private sector actors to adopt the necessary means and measures to comply with these and to enforce compliance. This makes the state’s work easier when it comes to verifying that the procedures have actually been followed, while delegating the responsibility for exercising controls to the private sector. The objective was to guarantee food safety through a flexible system, adapted to the development of innovations and to the free movement of goods. The same strategy was later adopted at the European level when the single market was established. France played a major role in the adoption of Council Directive 93/43/EEC of 14 June 1993 which lays down the general rules of hygiene for foodstuffs and requires that businesses adopt self-monitoring procedures based on the HACCP (hazard analysis and critical control point) method.

Thus, standards gradually spread across the food industry. With the food scandals of the 1990s, the public authorities were sustained in their increasing desire to delegate enforcement of compliance with the regulations through the use of standards to the private sector. The HACCP method is the best known: industry takes responsibility for the safety of its own processes, while the state’s external field services monitor the application of the procedures at a secondary level. Quality assurance standards or approaches are another example, setting standards for means rather than for outcome: they define the stages of compliance, and often require the production of written, measurement-based data. These standards, as well as being public policy instruments, operate in three distinct registers.

First, they belong to the general context already described, in which the public authorities delegate the enforcement of regulatory measures to private sector actors. Faced with increasingly extended, complex chains of interdependence in the food sector, with subject matter that demands a constantly updated scientific and technical mastery, and with lack of resources, the supervising ministries (Agriculture and Finance) rely on industry – producers and retailers – to take charge of regulating its own activity.

However, standards may also come to supplement regulatory action, without this having been provided for initially. This is the case when regulation does not achieve the objectives laid down for it in terms of risk reduction, as was the case with the Decree of 8 December 1997, which governs the use in agriculture of urban sewage sludge (Borraz and d’Arcimoles). Compliance with this legislation by sewage sludge producers was not enough to reassure its users, and still less purchasers of agricultural products, who took a stand against it. The manure-spreading trade then undertook to elaborate a ‘Reference System for Certification of Agricultural Recycled Fertilizer Application Services’ in consultation with representatives of the public authorities, the water industry, the food-processing industry and food retailers. In a context where administrative monitoring capacities and state regulation of urban sewage sludge application were largely inadequate, this approach aimed to combat loss of trust in the public authorities by transferring trust toward a certification. But in taking on this responsibility, the private sector actors are in effect accepting the imposition of stricter performance rules than those laid down by legislation. A certified system must conform to all the regulatory provisions in force but must also meet a number of additional requirements. In so doing, standards actually contribute to the credibility of the scientific and regulatory data mobilized.

The third register in which standards operate concerns the definition of rules and the production of information among the different actors involved in an activity. Scandals and controversies in the food sector highlighted complex chains of interdependencies between a diver-
sity of actors, often unfamiliar with one another. Food industry and retailers, in particular, realized that they were in a dependent situation in relation to their suppliers; but they refused to take on the role of the state in checking that their suppliers complied with the regulations, especially since they had only limited trust in this compliance or in the capacity of the regulations to reduce risk effectively. But when their suppliers presented them with standards or quality insurance schemes, these constituted familiar instruments. Not only do they themselves use them, but they are also convinced that these instruments are more effective, by virtue of the way they are developed (broad consultation of the different interested parties), their voluntary nature and the threat represented by a withdrawal of certification in the case of non-compliance (notified, moreover, by a third party). Thus, the certification approach adopted for urban sewage sludge application is directly inspired by quality control strategies established by the various parties involved in the food-production chain in order to monitor production processes. The approach consists of bringing urban sewage sludge application systems into a “quality infrastructure” (Foray, 142). Conceived as a reference standard that breaks the quality of the service down into objectified characteristics, the Certification Reference System aims to make procedures for agricultural application services compatible with the quality requirements of the food-production industries. Its provisions act as guarantees that a product now viewed as an integral part of the food-production system can reach agricultural land. Because it is accompanied by a number of indicators and instruments for monitoring and analysis, and because it replicates measures that apply in the food-production chain, certification of urban sewage sludge application thus forms a solid set of criteria that are intelligible and accessible to the actors in this chain. Certification is therefore somewhat similar to a judgment device, drawing its effectiveness from two intimately connected components: “cognition and trust.” (Karpik, 538)

The importance of trust in regulation has been underpinned by Jordana and Levi-Faur. They insist on “the dynamic process of trust-building between social and political actors” (14), not as a substitute to the role of expertise, but as a reaction to the growing number of interested parties and the complex interdependencies in which they are caught. In this context, the aim of standard-setting as a regulatory activity is the production of common and shared knowledge between a variety of actors, upon which they can base their activity and interactions. While in the past, the function of knowledge-production belonged primarily to the state, it now belies upon the interested parties. Meanwhile, a shift has occurred, from the shared belief that knowledge produced by the state was legitimate given central government’s capacity to uphold the general interest, to shared understandings around rules best capable of protecting the different interests at stake. This, in turn, provides an answer to the “demands for more transparency and accountability” (ibid, 15), since standards create expectations on the part of public authorities but also with respect to the engagements taken by the different parties. Trust in public regulation now operates indirectly, through confidence in standards proclaiming the need to enforce regulation. More importantly, standards can provide clear and stable answers as to who is responsible or is in charge in case of an accident. Given the fact that previous crises and scandals in the field of food and health underpinned the absence of any such clear identification, private actors and public authorities alike, along with NGOs, expect standards to fill in the void. Hence, standard-setting is an important feature of the regulatory state, in its capacity to develop or encourage processes of trust-building.

In the food-production industry, the ensuing familiarity of this instrument stems from the scale of standardization and certification approaches, initially around quality and more recently around safety issues (Borraz et al.). “Through standardization and certification, quality policy aims to adapt food-production structures to fragmented markets. It is also directed towards globalization of quality products within the European market through harmonization.”
These procedures have proved particularly useful from the point of view of the single market: by obtaining recognition of these certificates, France has been able to thwart the effects of the free movement of goods and protect small producers in certain areas. This touches on the second dimension of standardization in France – its use as an instrument of economic policy.

III.2 Service standards

In order to understand the use of standardization as an instrument of economic policy, we must look at the changing role of AFNOR. This organization has been subject to challenge, for two decades now, by the different standards, marks, quality seals and other forms of certification that have proliferated in a number of sectors. AFNOR has also lost influence through the development of European standardization.

“the weak requirements for gaining the CE marking (where specifications with regulatory aims seek minimal safety rather than better quality, and where award of the mark is based on the manufacturer’s own declaration rather than on a formal certification procedure), has forced the ‘NF’ mark to differentiate itself ‘at the top’, by placing the emphasis on aspects that would be better described as ‘normative’ – in other words, ‘voluntary’ rather than ‘regulatory’ standardization, ‘performance’ rather than just ‘safety’, ‘third-party certified’ rather than ‘self-declared’ (since this is hard to monitor). The CE marking – which essentially covers manufactured products – has driven ‘NF’ to differentiate itself laterally too, through the development of new fields of application for French certification, including the environment (1992), food production (1994) and the service sector (1994).” (Cochoy, 85)

In a context where the state has withdrawn its funding, this evolution towards service standards puts AFNOR in a position to mobilize new resources by becoming a service company for businesses that wish to develop their export activities. Nevertheless, it preserves “a base of procedures for the socio-technical characterization and appraisal of objects” and continues to offer “a space for debate” (Cochoy, 86). The example of the customer service standard NF P 15-900-1, which defines guidelines for service activities in drinking water supply and wastewater treatment illustrates this change (Diallo).

This standard follows on from the financial scandals around the delegation of water services during the 1980s to private firms. The water distribution companies and the licensing local authorities wanted to standardize this activity, in order to answer the criticisms they had suffered.

The standard was drawn up by a committee including representatives of consumer groups, state and local authorities, experts, water distribution and treatment firms, and AFNOR. The preparatory work for this committee was done by a sub-committee consisting of two representatives from water companies, one AFNOR representative, one representative of a public-private partnership water management company and two representatives of consumer groups. This sub-committee defined the framework of the standard and then presented its work to the full committee.

In entrusting the chairing of the committee to a consumer group, the water companies wished to demonstrate their good will. The development process itself was carried out in a consensual manner and the business representatives acceded to most of the demands made by the consumer groups, which related to improving the level of benefit to the customer.
However, this standard cannot be understood solely from the point of view of those taking part in developing it or of their capacity to reach a compromise.

First of all, this standard illustrates the change in AFNOR’s role. As its membership charter explains:

“businesses today have realized that the standard represents a means of achieving competitiveness on international markets. Therefore, from now on the battle for standardization will be fought at the global level [...] Should we be taking steps to promote the options offered by French technology? Or should we be waiting for others to impose their choices on us? If you do not defend our standards, others will impose theirs on you.”

The charter also defines the new role of standards precisely: “to establish a frame of reference for their sector, in order to make – or oppose – concrete proposals during European or international negotiations.” AFNOR takes the view that service activities, which represent 70% of GNP of industrialized countries, ought to be subject to standardization in the same way as manufactured products – and this standardization is a major economic stake for businesses that want to open up markets, protect themselves and be competitive.

Second of all, water distribution companies have an interest in playing an integral role in this approach, partly in response to the pressures that came to bear on them from the 1980s with regard to the conditions under which public utilities were assigned to them, the problems of fixing a scale of prices or water quality issues, but mainly in order to extend their activities on an international level. Since the French water market is almost saturated and offers low rates of profitability, the major French undertakings in the sector are turning to deregulating foreign markets in order to derive new profits. The existence of an AFNOR standard – intended to rapidly become an ISO standard – represents a considerable asset in this campaign of conquest, for two reasons. Firstly, since this standard relies largely on the experience acquired by French companies in managing water and drainage services in France, it will be much easier to conform to it when it becomes international in scope. Secondly, financial aid from the World Bank to the water market is often linked to compliance with the standards in force in the sector; and international invitations to tender generally impose standards compliance. Once again, French businesses will have an advantage over their foreign competitors from the outset.

In this case, an Anglo-American proposal for a standard covering the design and construction of drinking water networks and wastewater treatment plants was under study, which would have favored equipment manufacturers to the detriment of distribution and wastewater treatment companies. This standard would have led to the exclusion of French technologies: French businesses therefore had every interest in developing a more general standard. Furthermore, this was a sector in which European standards institutes had not intervened: while the EU imposes the status quo on national standards institutes in those sectors where the European standards institutes operate, there is no comparable constraint in other sectors. Thus, standard-setting appears to function as a state policy, in that the state supports national businesses, notably in strategic sectors where these businesses occupy dominant positions.

In this example, the discrepancy between the process of developing the standard and the objectives pursued by the main protagonists – the businesses, the state and AFNOR – may be surprising. A document that initially responded to national considerations and was developed in consultation between consumer groups, experts and industry, has proved, in the final analysis, to be a powerful weapon in the campaign to conquer markets – an objective that was never explicitly mentioned during the process of development. In fact, the principal actors of
the standard did not have clear, precise knowledge of the broader issues at stake. In other words, when the water companies engaged in the process, their objective was to reduce the risk of future contestation in France from angry customers or consumer associations. It is only during the process that they, along with public officials, understood the larger benefits they could gain from such a standard and clearly saw the opportunity unfolding before them. This helps to underscore the issue of unintentionality in standard-setting: the discovery of opportunities not planned initially, but which appear during the process and present the parties with new resources.

Standard-setting thus constitutes a public policy instrument on behalf of economic policy, defended by the state and carried through by AFNOR with the assistance of relevant businesses. A similar phenomena can be observed at the EU level. The creation of a policy domain in telecommunications was initiated by the Commission, based on growing pressure from a range of societal actors (equipment manufacturers, major business users, new service providers, potential operators of alternative infrastructures), driven by a rising level of cross-border transactions, and with the decisive contribution of ETSI in providing a common standard (GSM) (Sandholtz). When GSM became the dominant world standard, this proved to be a decisive element in favor of European firms on the worldwide market. Yet, it is far from clear that promoters of EU telecommunications policy had, at the outset, a clear view of the wider economic stakes on a worldwide level; their initial objective was to create a single telecommunications market, based on a common standard, against the vested interests of the member states to protect national telecommunications monopolies.

The two French examples provide evidence of significant evolution in the instruments of state policy and in the role played by standards. This evolution is neither sudden nor violent. On the contrary, it forms an intrinsic part of a long-term trend, whether in the development of quality certification in the food-production field or in the intrusion of the market into AFNOR standard-setting. However, it is a trend that takes every opportunity to gather strength in the context of economic globalization and the European integration project. The state finds in the use of standards a good method of responding to the constraints that these two phenomena bring to bear, as well as a means of protecting national economic sectors such as small farmers or major firms in the urban services sector.

Standard-setting in the food sector also shows that there is a willingness on the part of the state to delegate the enforcement of its legislation to private sector actors, when it lacks the resources necessary for enforcement or monitoring. These examples thus indicate that the wider use of standards clearly expresses a profound change in the state’s capacities for action. Delegation to private actors, whether to industry or to an organization like AFNOR, of some of the tasks previously carried out by state services is one of several markers of changes in progress. Standard-setting is a substitute, as well as an aid, for state action.

IV. Conclusion

Europe and France offer contrasting examples of the use of standards – and, it must be stressed, the instances given here are by no means exhaustive. Both encourage the development of standards in a context where the state (or quasi-state, in the case of the EU) no longer has adequate instruments to carry out its tasks and to respond to the problems facing it; but they differ on several points.

The European approach displays basic principles that coincide with the guiding principles of the European integration project. The standardization process is made to coincide with a political theorization, which is in return influenced by the development of standards as a model
of co-regulation. There is nothing similar to this process of co-production of theory and instrument in France.

The two levels also differ in the way they share tasks between public authorities and private actors. The European standardization process is based on a distinct cleavage between the public sector defining the objectives and the private sector developing the means to achieve them. The French process reveals an enmeshed situation, in which the authorities delegate implementation of legislation, regulation of private sector activity and promotion of the interests of French industry to the private actors. This provides for different degrees of integration of standards in the two systems: although more politically integrated within the EU, they leave greater room for manoeuvre to the social actors in drawing up standards; less recognized in France, standard-setting is more integrated into administrative functions, both in developing standards and in monitoring them.

Finally, given that the EU and France are two very different polities, standards do not fit in identically within their respective evolution toward a regulatory state.

At the European level, standards are instruments of supranational governance. This is a perfect illustration of unintentionality in policy instruments, since the standardization process was not conceived with this objective. Initially destined to quicken the pace toward the achievement of a single market, and as such an instrument of intergovernmental politics, standards progressively opened perspectives for a more integrated approach. This is partly due to the fact that standards build on the “the presence and influence of transnational actors – interest groups, business, knowledge-based elites – on policy processes and outcomes.” (Stone Sweet and Sandholtz, 10) In the eyes of the Commission, the standardization process offers the opportunity to reduce the influence of national interests on rule-making by building on the growing influence of transnational exchanges. In order to do this, they must rely on the standards institutes, who have perceived the benefits of such a transformation as a way to gain more autonomy. “As supranational organizations and rules emerge and solidify, they constitute transnational society by establishing bases for interaction and access points for influencing policy. As transnational society endures and expands, the organizations and rules that structure behaviors become more deeply rooted as ‘givens’, taken for granted as defining political life.” (ibid., 11) Hence, standards clearly reveal and simultaneously play an active part in the formation of a transnational society upheld by a supranational framework of governance.

In France, standards are an instrument in (and of) state transformation. Here again, they were not initially conceived as such, and it is only following a series of crises which revealed major dysfunctions within the state, along with larger economic and political changes, that administrative agents saw the use they could make of standards in regulating highly complex and interdependent domains, or in promoting French economic interests on a wider scale. Although it is not clear if, in so doing, they modified the nature of these instruments, they have certainly contributed to an unexpected extension of regulation. They have simultaneously contributed to a redefinition of boundaries between the public and private spheres, not so much in the sense that these boundaries are now blurred, but rather in the sense that rule-making regarding the behavior of social actors is a growing part of the latter’s activity and not the sole responsibility of the state. In reality, this has always been the case: the difference lies in the fact that these rules are now openly negotiated, codified and enforceable. Analyzing this situation as an extension or a regression of the state (or of civil society) is meaningless; rather, it seems more important to stress that standards serve as an instrument of renegotiation of the state’s role and influence in a changing society.
V. References


Tracking the evolution of a single instrument can reveal profound changes: the case of funded pensions in France

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\textsuperscript{1} Part of this text is based on research conducted jointly with Giuliano Bonoli (See Bonoli and Palier 2000; Palier and Bonoli 2000). In addition, thanks are due to Christelle Mandin for research assistance.
The history of retirement pension policies reveals that all countries in the developed world have been through four different phases, each marked by a main objective. Pension systems began to emerge in the 19th century or the interwar period, with the chief objective of combating poverty among people who were too old to work. After the Second World War, pension systems were organized and extended, with the aim then being to guarantee replacement income to all retired people. From 1960 to 1970, retirement pensions became considerably more generous: the intention was to reduce inequalities between people active in the labor force and the inactive – or even between retired people themselves – partly with the Keynesian objective of maintaining the capacity of non-working people to consume. At the end of the 20th century, the history of retirement pensions entered a new phase and, over the last fifteen years, policies have all aimed to reduce public expenditure on pensions. These reforms have been undertaken partly in response to the aging of the population – notably through increased longevity – but also in order to adapt pension systems to the new economic context marked by the opening up of economies and the importance of supply-side economic policies (Palier 2003a).

Although it can be shown that all developed countries have had similar objectives for their pension policies, it is clear that the instruments adopted to bring these policies to fruition have differed widely from one country to another. By the beginning of the 1990s, retirement pension systems could be distinguished according to the instruments adopted: those that have favored ‘pay-as-you-go’ (where current contributors finance current pensions and count on future contributors to pay their pensions) and those that have favored ‘funded pensions’ (where payments from the wage earner and, possibly, the employer are invested, and then both capital and income from these investments are paid out in the form of annuities). The retirement pension systems of developed countries may thus be divided into two main groups (Bonoli 2003). The United States, the United Kingdom, the Netherlands, Switzerland and Denmark are distinguished by systems where funded pensions play a very important role. Most other European countries (and, to a certain extent, Japan) have systems where ‘pay-as-you-go’ (PAYG) schemes play a much greater part. In the case of France, Italy and Germany, basic PAYG pensions guarantee much higher benefits, with replacement rates varying from 53% of net wages for Germany to 78% for Italy. Thus, the income needs of retired people are to a large extent covered by the PAYG system, leaving little room for the development of funded pension schemes.

Many contributions to the recent literature on the new politics of the welfare state (Pierson 2001) have started from analyses centered on pension reforms particular to the fourth phase of the history of pension policies, where the aim is to reduce public expenditure on pensions: this is often described as the politics of welfare state retrenchment. The most important aspect of this literature has been to establish that the choices of the past have a crucial bearing on the options available to present governments, and that a pensions system cannot be radically altered – notably, moved from a PAYG system to a funded one. Basing his discussion on a comparison between the United Kingdom and the United States, Paul Pierson was one of the first to explain why it does not seem possible to transform a pension system radically, concluding that this type of reform is subject to path dependence phenomena (Pierson 1994). This early work – later frequently confirmed – seems to have demonstrated two things. Firstly, any reform of retirement pensions is gradual, strongly determined by institutional patterns specific to the country and to its pension system, and will maintain (even reinforce)

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3 See, for example, Myles and Quadagno, 1997; Myles and Pierson, 2001.
the logic inherited from the past. Secondly, and consequently, in an industrialized, democratic country, a mature PAYG system cannot be completely replaced by a funded system. Two major reasons have been put forward to explain this impossibility, one technical and the other political. Firstly, replacement of the whole system would oblige the current working population to contribute twice – once to pay the pensions of currently retired people, then again to save the funds for its own future pensions. Secondly, coalitions of interests attached to the PAYG system seem to have sufficient political influence to prevent any radical reform.

However, running counter to the path dependence theory, four of the big PAYG pension systems are in the course of developing supplementary funded systems: since the mid-1990s, Italy and Sweden; since 2001, Germany; and over the last few years, as this article aims to show, France. This phenomenon is particularly surprising for countries, such as Germany or France, that have been classified as having a “conservative, corporatist” system of social protection, incapable of introducing major reforms (Esping-Andersen). We need to understand how a phenomenon declared to be impossible by the theory that currently dominates analysis of welfare state reforms (the path dependence theory) can actually come about. While the dominant approaches concentrate on a classic causalist analysis of the politics of these reforms (analysis of demographic, financial and economic causal constraints; study of the government actors’ political and ideological positions; analysis of mobilizations of coalitions of interests; consideration of the constraints exercised by political institutions), this article intends to demonstrate that, by taking a different approach, centered on the intellectual tracking of a particular instrument (in this case, funded pensions), we can grasp and come to understand this type of change.

In other work focused on the French reforms, we have shown that social policy reforms can sometimes leave their path of dependence (Bonoli and Palier 1998; Palier 2000 and 2002). But in order to understand these changes, rather than seeking the causes, successes or failures of major reforms, we had to track the intellectual debates around public policy instruments and the political processes for developing them (Palier 2003b and forthcoming). In order to understand theoretically impossible developments, we therefore adopted a particular method, based on analysis of the political processes by which these particular instruments emerged and developed. We first identified several of the new instruments whose rise has signaled a gradual but profound transformation of the French social protection system: a new benefit (Revenu minimum d’insertion – RMI, a guaranteed minimum income), a new way of financing social protection through a tax on all gross earned and unearned income (Contribution sociale généralisée – CSG, or Generalized Social Contribution), and new decision-making procedures including Parliament’s power to vote on the annual social security budget (la loi de financement de la Sécurité sociale – Social Security Financing Act, or LFSS). Then we systematically compared the intellectual and political processes that enabled the adoption and implementation of these instruments⁴. To complete this comparison, we broke the processes down into identifiable and comparable phases: construction of a diagnosis of the problems, development of the solutions, adoption and, finally, implementation of the measures⁵.

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⁴ This means carrying out “systematic process tracing” in order to attempt inductive generalization about the political processes of policy changes, starting from the observation of regular features. See Bennett and George, 1997; Hall, 2003.

⁵ The informed reader (who is probably disappointed at the somewhat unoriginal approach put forward here) will have recognized that we are seeking to analyze the intellectual dimension of policy-making sequences as defined by Charles O. Jones. It should be noted that this method differs strongly from the currently dominant analyses, which come down to seeking causes by analysis of covariance and regression analysis, without going into detailed analysis of policy processes.
The comparison of these processes shows that, in all the cases studied, changes in institutions and in the logic of social protection are produced less by a radical, explicit ideological shift than by the – at first, marginal – introduction of new public policy instruments. Comparison of the political dynamics that allowed these reforms to be passed shows that they all share some common features at the different stages of the policy-making process. Each of the phases identified reveals a common process: 1. Diagnosis of the present situation challenges the instruments chosen in the past. Innovation is based on a common agreement that the new problem to be dealt with is due to former policy failure. New instruments can be introduced only by invalidating past ways of doing things. 2. Elaboration of solutions in opposition to the past. New instruments are designed in opposition to past ways of doing things, aiming to avoid the “errors” of the past rather than to tackle present problems. 3. New measures are adopted on the basis of an ambiguous, even contradictory, agreement. Although most of the relevant actors favor the new measures, they most often do so for very different, and sometimes contradictory, reasons. 4. Incremental development, cumulative change. New ways of doing things are introduced “at the edges” of the system: although these develop gradually until they reach a significant scale, they actually relate to a particular logic, different from conventional ways of doing things and ways of thinking, and so they spread a new logic within the system.

Where the conditions for these four phases are met, it is not impossible – though it remains hard – to introduce measures whose logic differs from the one of the existing systems of social protection; in other words, path-shifting reforms are feasible. Funded retirement pensions do not fall under the logic of social insurance as it has developed in France, particularly since 1945. While some people think that, because of path dependence phenomena, it is impossible for funded pensions to come into general use (Myles and Pierson 2000), we would like to take up the method outlined above and apply it to the area of pensions, showing how the political conditions for developing funded pensions have come about in France. In order to do this, we will first recall that the French pension system seems, at first sight, to meet all the institutional and political conditions for very strong resistance to change – including to the development of funded pensions – and that the rare reforms carried through in France seem to follow the path traced by history. However, we shall move on to follow more closely the French debates about the crisis in the pension system and the solutions envisaged and implemented. We shall then see that the capacity of PAYG pensions to guarantee sufficient income to retired people in future has been increasingly called into question; that funded pensions have been presented as offering an opposite course to PAYG pensions; that establishing a mixed system is the object of ambiguous agreement; and that supplementary funded pensions are gradually taking an increasingly important place in the French pension system, as much because of government measures as because of the private behavior of the French. We shall see how, in the long run, this gradual development of funded pensions signifies a profound transformation of the French retirement pension system.

I. The French pension system is highly resistant to change

I.1 A system based very largely on pay-as-you-go

The French retirement pension system is based almost exclusively on a compulsory PAYG social insurance system, which provides contributory benefits to wage earners who have made enough contributions. It is financed mainly through social insurance contributions and managed by pension funds independent of the state, directed by a board of governors consisting of employee and employer representatives. The system is very fragmented. There is one main
scheme, the régime général or general scheme, which covers waged employees in the private sector of commerce and industry, who represent about 60% of the population. However, when this system was set up, just after the Second World War, many occupational categories insisted on retaining separate pension funds, in order to guarantee either more generous benefits than those provided by the general scheme (e.g. for people working in the public sector and public undertakings like SNCF – the railways – or RATP – the Paris metro) or else lower contributions than those required by the general scheme (as was the case with professionals and farmers).

This collective pensions system guarantees pensions that give an earnings replacement rate between 70% and 75%, on average, thus a priori leaving little room for funded pensions. However, some occupational categories have chosen to develop optional supplementary funded pensions: the ‘PREFON’ system was established in 1967 for civil servants; ‘COREVA’ was set up for farmers in 1990, although it has since been banned by a judgment of the Court of Justice of the European Communities; while ‘FONPEL’, for elected local officials, dates from 1993. Since 1994, the self-employed have been able to receive tax reliefs for retirement savings or occupational benefit contracts. Finally, since the mid-1990s, large businesses have seen a proliferation of voluntary supplementary funded schemes known as “top-up schemes” (e.g. agreements on voluntary supplementary schemes in insurance companies and banks). It was only in 2003, however, that a pension scheme of this type was created for members of the general scheme, who represent the majority of French wage earners: Plans d’épargne retraite populaire (Popular Retirement Savings Plans, or PERPs). Before we can seek to understand how these new forms of pensions have developed, we should recall the reasons why the French pensions landscape does not seem very conducive to change.

I.2 Old-age pension schemes’ capacities for resistance stem from their chosen instruments

In France, the reform of retirement pensions is perceived as one of the most politically sensitive issues, and any proposal to reduce pensions meets strong opposition from the public. Pensions are one of the main factors attaching the French to their social security system, primarily because the compulsory pension schemes within this social security system provide replacement rates of around 70%.

Apart from its generosity, the French pension system also draws powerful legitimacy from the type of social rights and benefits it provides and from the realm of its financing and management (in other words, the pension policy instruments adopted) – and these make it very difficult to reform. The nature of the social rights that justify the payment of basic pensions is not the same in every system. In paying social insurance contributions out of earnings in order to gain “entitlement” to a pension, contributors have a sense of purchasing social rights. Social rights “accrued” by the payment of social insurance contributions are, therefore, more difficult to challenge than social rights based on need or even on citizenship. It is difficult to criticize the principles of a system where basic pensions themselves are founded on rights accrued by paying part of one’s earnings throughout one’s working life.

The way French pensions are financed through social insurance contributions also helps to explain their great capacity to resist attempts at retrenchment. While taxes go to the state, social insurance contributions allow people to acquire social rights that are later translated into a retirement pension: these contributions seem to “come back” to those who have paid them. The concept of “deferred wage” – a term that referred to social security contributions for a long time before they became known as “social costs” (Friot 1998) – demonstrates that money paid into the pension system in the form of contributions was conceived as having to be paid
back to the contributor at a later date. In contrast, tax-based financing suffers from the drawback generally associated with taxation. In a country like France, where tax receipts cannot normally be earmarked, money paid to the state in the form of tax – and notably in the form of income tax, particularly visible since it is not levied at source – seems to get lost in the mass of public expenditure, and its use ceases to be clearly identified, unlike social insurance contributions. Since contributory pensions are financed by contributions and not by tax, the French prefer to see their social insurance contributions increase rather than their social security benefits fall (Palier 2002).

While the legitimacy of old-age pension schemes relates to the characteristics of their benefits (high benefits; pension rights accrued through work; financing by social insurance contributions), their capacity for political resistance to change owes a great deal to the institutional framework in which they are organized.

The historical literature on the constitution of pension schemes in France clearly shows how the French pension system was established through gradual negotiation, exceptions and separate schemes (régimes particuliers, régimes autonomes, régimes spéciaux), and how this has enabled numerous socio-occupational categories to ensure that their own specific interests were well-defended (Guillemard 1980 and 1986; Dumons and Pollet). This corporatist fragmentation of the French pension system into hundreds of distinct schemes contributes to its resistant nature: some socio-occupational groups insist on preserving their particular advantages, and, if it wants to reform the system, the government must negotiate with representatives of each group.

The PAYG pensions system is especially legitimate in the eyes of French workers, but they have not found anyone in the political parties in government to stand up for them (Gaxie et al. 1990): since the mid-1980s, both right-wing and left-wing governments have sought to reduce the level of PAYG pensions. On the other hand, workers seem to have been represented by confederations of trade unions with positions that – although not united – were uniform: throughout the 1980s, they defended the French social security system against government plans. This gave them a capacity to mobilize on social security issues, and they have gradually emerged as “defenders” of the social security system against government plans to challenge pensions. Therefore, trade unions are true veto players (Tsebelis 1995; see also Immergut 1992) in the French social protection system – that is, actors whose agreement is essential to carry through any change. Analysis of the last twenty years shows that the French social security system cannot be reformed without getting the agreement – or at least the tacit consent – of unions (or at least some of them).

Thus, it is the “corporatist-conservative” instruments of the French pension system that explain their capacity for resistance to change (by comparison with the British situation, for example). It is more difficult to reduce generous contributory benefits covering the majority of the population, financed by social insurance contributions levied on wages and managed by employers and unions than fixed benefits, financed from taxation and managed directly by the state. Therefore, the institutional modalities adopted in 1945 in setting up the French social security system appear to lie at the origin of the barriers to reform – even though this has been presented as necessary since the late 1970s and firmed up in many reports since the mid-1980s. France is known for large demonstrations marking attempts at pension reform, notably in 1995 and in 2003. However, the French situation has not remained rigid, and some economic and political events have now helped to open the way to reforms.
I.3 Reforms follow the furrow ploughed by history

At the turn of the 1990s, two main elements seem to have played a determining role in unblocking the situation: the European integration project and the economic recession of the early 1990s. In the early 1990s, the set of economic policies linked to the European integration project (competitive disinflation policy; trying to reduce social security contributions and benefits; sticking to the Maastricht criteria) led successive governments to seek to scale back social security expenditures – notably on retirement pensions – at all costs. Moreover, developments in the French economy, which went into recession in 1993, further strengthened the need to implement measures to reduce social security benefits.

Although it is even more difficult to criticize the social protection system in France than in the UK (for example), in the early 1990s French governments had arguments at their disposal to justify reforms that would have appeared impossible to implement up to then. Reforms of the French social protection system have gone on to proliferate – not only in the area of pensions, but also in other areas (unemployment insurance reforms in 1992 and 1993, implementation of the Juppé Plan for sickness insurance in 1995, etc.).

In pensions, two major reforms have been adopted, one in 1993 and the other in 2003. The 1993 reform of retirement pensions altered the method of calculating pensions for those working in the private sector, as well as the way pensions are indexed. Since this reform, the amount of pension has been calculated with reference to the 25 best years’ earnings (previously, it was the ten best years). To get a full pension (50% of the reference wage), it will be necessary to have contributed for 40 years (160 quarters), instead of 37.5 years (150 quarters) as before. This extension to the contribution period is being introduced gradually. In addition, pension increases are no longer indexed to gross earnings, but to movements in prices. The 2003 reform consisted mainly of bringing the situation of retired public servants into line with the private sector: from 2008, public servants too will have to work for forty years to gain the right to a full-rate pension and, from now on, pension increases are to be based on movements in prices rather than in public service wages.

Pension reforms carried through in France since 1993, because they mainly strengthen the contributory element of social insurance schemes, seem to have remained on the path defined by the history of French social insurance, as do all the pension reforms conducted in Bismarckian countries (Myles and Pierson 2000; Schludi 2003). However, to the extent that they have reduced the level of benefits provided by the basic schemes, they leave room for other forms of pension to develop. The advent and development of funded pensions in France can be said to mark an explicit break with the country’s path dependence – a situation which, to many people, seems impossible. However, we shall see how the four conditions that enable the development of a new public policy instrument have come together for pensions, as they have in other areas of social protection.

II. The advance of funded pensions

Despite this context, which is not very favorable to change or to the development of funded pensions, we shall track the advance of this new instrument across the French pensions landscape. The debates conducted in France around the crisis in the pension system have gradually called into question the trust placed in PAYG pensions, calling on the public to supplement their future retirement incomes through funded pensions and presenting these as offering

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6 On this reform, see Bonoli 1997 and Palier 2002.
all the guarantees that PAYG pensions no longer can. The development of funded pensions is based on an ambiguous consensus advocating the creation of a mixed pension system. Supplementary funded pensions are gradually coming to occupy an increasingly important place in the French retirement pensions system, both because of government measures and because of the private behavior of the French.

II.1 Diagnosis challenging the instruments of the past: weakened PAYG pensions.

In order to “soften people up for reform”, numerous reports on the pensions situation have been prepared: all the diagnoses they offer tend to stress the incapacity of PAYG pensions to survive the demographic time bomb. During the 1980s, the financing of future retirement pensions became a major issue. Numerous administrative reports were then commissioned, to make demographic projections and propose solutions. Demographic projections stressed the need to reform the system for calculating pensions: by 2025, if France wants to keep its system of pensions balanced, either contributions will have to be increased by 170% or benefits will have to be halved (Ruellan 1993, 911-2). Thus, all the published reports – covered extensively in the media – stressed the incapacity of the current PAYG pension system to guarantee sufficient income to future retirees. After this process of making PAYG pensions appear weak, the first challenge to their place in the French system came with the 1993 reform. Following this, the level of pensions provided after 2008 will be very much lower (by about a third) than the level of current pensions. Therefore, working people can no longer count as much on their basic pension and must now call on other resources if they want to ensure an equivalent level of retirement income.

The 1993 reform was limited to the private sector. However, in 1995, the Prime Minister, Alain Juppé, attempted to impose a similar reform on the public sector, without negotiation or “softening people up” first. The enormous demonstrations of November and December 1995 then obliged him to withdraw his Plan. To make the reform of public sector pensions politically feasible and avoid Juppé’s 1995 trials, the groundwork for new measures was laid, from the late 1990s, by a new phase dramatizing the situation of the French pension system. As in the late 1980s, several reports in the late 1990s looked into the fate that would befall pensions. Their numerous demographic and economic analyses stressed the coming weaknesses of the PAYG pensions system. These analyses and forecasts had a major impact on the French public and on the principal defenders of the system.

The proliferation of reports, publications, media and government campaigns on population aging and its supposedly catastrophic effects on pension schemes, which appeared in 1999/2000 and again in 2003, in effect helped to undermine the public’s trust in the PAYG pensions system. From then on, the idea that the current system will not assure future generations of a reasonable retirement income has become strongly rooted in French minds. 1999

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was a year of preparation for pension reform. The Charpin Report, which was submitted to the Prime Minister on 29 April, created a major media focus on the issue of pensions, a chance to remind the French that the current system alone was not capable of guaranteeing future retirement pensions. Throughout 1999, polls proliferated\(^8\). In the part they play in the political construction of a problem, polls are not only a measure of the state of opinion but also an indicator of the political issues involved (in terms of their frequency and through the tenor of the questions asked). The polls confirmed that the preliminary message, that demographic changes are calling into question the capacity of the PAYG system to fulfill its contract, has really got through: French people (as questioned in various polls) are worried about the amount of future pensions. The future level of pensions was the third greatest preoccupation for people questioned by Cencep for *Le Parisien*\(^9\). Eighty-five per cent of the 955 people questioned by BVA for the trade union CFDT, LCI and *L'Expansion* said they were worried about the future of the system, while 72% of the 534 working people questioned by Ipsos for the Argus media observatory think that they will be poorer when they are retired.

Calling into question the instruments of the past (here, asserting that PAYG pensions are incapable of guaranteeing future retirement incomes) is an indispensable condition for change, since, in the face of the inertia of institutions and the resistance of interests attached to past and present policies, new measures can be adopted only when existing measures have demonstrated their weakness in relation to the specific problem to be tackled (here, population aging). It should also be noted that, if they are to lead to the implementation of new measures, it is not enough for these analyses merely to be developed by experts: it also seems to be necessary for a majority of the actors committed to and by these policies to adhere to the same type of diagnosis. Often, before it can impose itself, the diagnosis that will give rise to new measures has to wait for alternative perceptions of the same problem to become marginal or even to be extinguished (both as explanations and in terms of their social support). In the present case, the idea that PAYG pensions could be adequate if social insurance contributions for them were gradually increased is sometimes defended, but is hardly received opinion in a context where social security contributions are viewed as an obstacle to the competitiveness of businesses and to job creation.

Specifically, the terms of the diagnosis are often negotiated and gradually shared in the course of work by the *Commissariat au plan* [National Planning Commission] and other commissions drawing up various reports. The work of the various specialized commissions seeks less to organize collective thinking in order to find new solutions than to create shared approaches to diagnosing problems. The work of these commissions is often preceded by, or may even start with, the task of identifying the difficulties: this may seem to be purely technical, but it

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\(^9\) After their children’s future and fears about employment.
involves (and seeks to impose) a particular conception of the difficulties to be dealt with. The particular conception (in this case, that past formulas have failed) then implies the nature of the solution.

II.2 Funded pensions presented in opposition to the defects of PAYG pensions

This invalidation of past instruments encourages the development of new ways of doing things that stand in opposition to earlier systems. Reading commissioned research and reports proposing new formulas for action reveals that thinking is always strongly directed by diagnosis. The formulas of the past cannot solve the problems to be tackled now: it seems, therefore, that we should seek solutions at the other extreme from the usual, and do the opposite of what has been done up to now. It is notable that, in a sphere where policies have accumulated over at least a century, a search for solutions to the bankruptcies of existing public policy strategies seems to be preferred to a “problem solving” view of public policies based on analysis of the problems themselves.

Analysis of the arguments put forward by early advocates of funded pensions during the 1990s, chiefly those of the international institutions like the World Bank, reveals two main points: unlike PAYG pensions, funded pensions are not subject to demographic pressure, and – again unlike PAYG pensions, which place a growing burden on the cost of labor and therefore put a strain on the competitiveness of businesses – funded pensions are favorable to economic growth, since they promote investments.

As attempts to reform pension systems proliferated in the 1990s, international organizations became increasingly influential in the debates. In 1994, the World Bank published a report which became an important reference point in the debate on reform of pension systems (some approving, others rejecting the report). It sets out the usual generally established facts: life expectancy is increasing, while the number of births is decreasing; the proportion of old people is therefore growing rapidly, placing a large economic burden on the younger generations. Therefore, according to the World Bank, financing for existing pension systems can no longer be guaranteed. These facts seem to be valid both for developing countries, where urbanization, growing population mobility, famines and wars are tending to lead to the disappearance of large families and all the other traditional modes of support for old people, and for developed countries, where the increasing costs of pensions to be paid place a great burden not only on pension schemes but also on economic growth in general. For the World Bank, traditional PAYG pension systems are a “costly error”. Therefore, the World Bank proposes a pension system model to ensure economic security for old people and to guarantee that it is financed in the best way both for individuals and for a country’s economic growth.

The arguments used to promote funded pensions aim to demonstrate that their strengths run diametrically counter to the weaknesses of PAYG pensions. Firstly, PAYG pensions are supposed not to be able to face up to the coming demographic crisis. Population aging means a higher number of non-working people, whose pensions have to be financed by a shrinking workforce; a declining ratio of working to non-working people implies that the cost of pensions will place a growing burden on the wages of those working. In contrast, funded systems seem to be unaffected by population aging, since they involve a generation preparing for its own retirement and therefore not dependent on the next generation to finance its pensions.\(^\text{10}\)

\(^{10}\) In fact, and contrary to these arguments, funded pension systems are also going to be sensitive to demographic changes: as pension funds have to pay out a lot of money to the many generations retiring after 2010, they are going to have to start selling their assets (shares, Treasury bills, etc.) in order to find the necessary money, but there will be fewer people of working age who are in a position to buy them. Trying to sell these
Secondly, PAYG pensions are presented as unfavorable to economic growth, and funded pensions as promoting it. Over the last two decades, liberalization of financial markets has allowed almost total freedom of movement for capital across the world and, to an even larger extent, within the European Union. Therefore, investors can choose to withdraw from a country if they consider that taxes and social security contributions are too high and risk making their investments less profitable. A high level of – or a significant rise in – contributions to finance PAYG pensions runs the risk of reducing the profitability of capital and therefore putting countries where PAYG pensions predominate at a disadvantage in global competition. Funded pension systems, in contrast, are supposed to promote savings and national investment. This is because national investment may be stimulated by the development of pension funds, both through rules – specific to these systems – obliging some pension fund capital to be invested in its country of origin and through the behavior of fund managers, who seek to avoid exchange rate risks by investing in the currency of origin of their funds. For many European financial actors, the advent of the euro must represent the chance to develop European pension funds: expansion of these would promote investments in Europe, which, in their view, are indispensable as engines of more dynamic growth.

Another argument put forward in favor of funded pensions refers to their better long-term returns by comparison with PAYG pensions. Looking at the enormous rates of return on stock market investments during the 1990s, many people take the view that money from social insurance contributions would be better invested on the financial markets than repaid directly to retired people. In the long term, a comparison of returns from a PAYG system and a funded pension scheme would slightly favor the latter, but this is based on average calculations, which do not take into account the big risks run by those who have to retire in bad stock market years. Thus, the fall in share prices since 2001 has considerably cooled the ardor of the funded pensions advocates.

Thus, the arguments advanced – which can absolutely be disputed, although that is not our aim here – clearly set the positive future characteristics of funded pensions in opposition to the present defects of PAYG pensions. Because PAYG pensions have been weakened by reforms and because it seems that funded pensions would avert the defects of PAYG pensions, a consensus has grown up around the need to develop a mixed system of pensions. However, this agreement is riddled with ambiguity.

II.3 An ambiguous agreement in favor of developing retirement savings

Reading the polls, as well as the positions of the various relevant actors, shows that the idea of developing funded pensions is the object of an ambiguous agreement in France. In the 1970s, funded pensions seemed to be taboo for many actors of social protection (notably the trade unions and left-wing parties); today, however, politicians and trade unionists seem increasingly willing to see them partly supplementing PAYG pensions. The ambiguity lies in the fact that the reasons put forward by the different actors are not the same, and are sometimes even contradictory.

The content of funded pensions is not the object of this consensus, which applies only to the principle of developing supplementary funded pensions alongside (and not instead of) PAYG pensions. However, looking back at the debates in France that have for a long time set supporters of PAYG pensions in opposition to supporters of funded pensions, one can see that this represents an important shift in perspectives on the future of pensions. There is now assets to a smaller population will create a context that considerably reduces their value, and this will therefore reduce the value of the capital available for pensions and other resources for retired people.
agreement on the general framework in which thinking is taking place: discussions relate much more to ways of applying the principle of a mixed system than to the principle itself. As a symbol of this agreement, most of those engaged in the debate seem to prefer the term “retirement savings scheme” (épargne retraite), which has gradually come to replace “pension fund”, a term probably too much colored by the behaviors of powerful American and British funds. However, the reasons why they think retirement savings should be developed vary from one actor to another. In tracing the path by which the various French actors concerned with pension reform have gradually become used to the idea of developing retirement savings, we shall see that the arguments put forward in support of this solution are not challenged, but that every actor adds particular representations and interests to justify adherence to the new solution.

Insurers, mutuals, banks and employers were the first to fall in behind the development of pension funds. Although each of these groups promoted the development of funded pensions, they differed on how to organize them (Charpentier 1997). Faced with the numerous concurrent projects that developed between 1991 and 1996, the CNPF, then the main organization representing French employers, tried to promote a coherent plan by asking an ad hoc commission chaired by Ernest-Antoine Seillière (who went on to become the first president of the new movement of French entrepreneurs, MEDEF, in 1999) and made up of industrialists, bankers and insurers, to draw up a written compromise. According to this working party, the creation of pension funds should help the economy to “function more smoothly”. The plan remained vague about the specific ways in which these pension funds would be organized; but they should consolidate the pension system, strengthen a business’s own funds and quasi-funds, and develop the French share market. In 1999, one of the advocates for pension funds in France, Denis Kessler, became President of the French Federation of Insurers and Deputy President of MEDEF. Having him in the top posts in their organizations seems to have made this objective a priority for French employers. The reasons they put forward for developing pension funds – beyond the immediate interest of insurance firms or banks seeing a possibility to expand a major market – were based on the need to develop French and European financial markets and, therefore, (French and European) capacities for financing business.

The right-wing parties were the first to take on the employers’ proposals. Thus, between April 1993 and May 1996, three bills providing for the creation of retirement savings funds were tabled in Parliament. The reasons the right-wing parties gave for favoring pension funds referred to the French employers’ arguments, but added a “sovereignty” argument. Thus, on 14 July 1999, Jacques Chirac criticized the Jospin Government for its resistance to change on the issue of pensions, and encouraged the creation of pension funds. Apart from the interests of businesses, the interests of France were at stake in the face of powerful foreign investors (the American and British pension funds): “A system of pension funds must be created (…) so that French pensioners and workers can regain ownership of their undertakings”.

In the late 1990s, members of the Socialist Party and some trade unions also seem to have become sensitive to the anti-American argument, which they were more at ease in advancing than the economic arguments in favor of pension funds. Thus, Nicole Notat, Secretary General of the CFDT, took up the argument: “All the same, European and French workers must

11 One argument in favor of setting up a retirement savings system in France is to create a counterweight to the American and British pension funds. In order to construct this argument, it was first necessary to demonstrate the ‘nuisance value’ of these ‘Anglo-Saxon’ pension funds, but this gave ‘pension funds’ a negative image, which another name may judiciously help to erase.

12 Speech made by the President of France on 14 July 1999.
now be wondering whether they are going to go on allowing Anglo-Saxon pension funds (...) to continue to have the monopoly involvement in French and European business capital”\textsuperscript{13}. In a report for the \textit{Conseil d’analyse économique} [Council for Economic Analysis], François Morin showed that French businesses need capital from French pension funds in order to escape from rule by the dictates of the American pension funds\textsuperscript{14}.

A second “left-wing” argument (running counter to employers’ interests) is put forward to justify the development of retirement savings for wage earners: creating a retirement savings fund within a business is a means of strengthening workers’ influence over their firm. Thus, Michel Sapin’s 2000 report for the Socialist Party on employee rights and save-as-you-earn schemes sharpens this argument: “For us, it is a matter of allowing workers to look inside the business: their view is different from that of the ‘pension fund shareholder’ and from that of management”\textsuperscript{15}. For some on the Left and the trade unions, retirement savings funds, collectively managed partly by workers’ representatives, constitute a means of strengthening the control and decision-making power of employees in the business, and this justifies setting up pension funds in France.

Therefore, a majority of the protagonists with influence on decisions about pensions share the idea that it is necessary to introduce supplementary funded pensions alongside the system of PAYG pensions – but for differing, even contradictory, reasons. In the early 2000s, this plan is still the object of clear opposition from the radical federation of trade unions \textit{Force Ouvrière}, the Communist Party and – less clearly – the CGT, France’s largest federation of trade unions. However, the consensus seems to have won over a majority of the French people. Polls on the future of pensions show that, knowing the consequences of the fall in future pensions, those surveyed were prepared to save for their retirement in order to supplement the pensions provided by the PAYG system. Between November 1996 and December 1999, all the (numerous) polls showed that most of the people surveyed (between 43% and 80%, with an average of nearly two thirds) favored the creation of a retirement savings scheme to supplement PAYG pensions (Palier and Bonoli 2000).

Therefore, a large number of the protagonists of pension reforms and a majority of the French people (according to the polls, two thirds) think that the future for pensions in France lies in moving to a mixed system combining PAYG pensions and funded pensions. But it is important to note the ambiguous nature of the agreement on this new public policy instrument. To be adopted, these new formulas must form the object of a relatively broad consensus; but the various actors concerned will approve the new way of doing things for different reasons. To be viable, an innovative measure must be sufficiently polysemic to garner support from divergent interests, bringing together contradictory interpretations around the broadest possible agreement. Among other things, it must be able to accommodate a “left-wing” justification and a “right-wing” justification, as well as the agreement of at least some employers and trade unions.

In considering the ambiguity that has marked the adoption of these structural reforms, we touch on one of the fundamental dimensions of public policy: the logic of aggregation (Leca 1996). The issue here is to bring together a majority of the actors, whether they are citizens

\textsuperscript{13} \textit{Libération}, 14 September 1999, p.15.

\textsuperscript{14} François Morin “L’économie française face aux fonds de pension américains, quelles leçons pour le système de retraite? [The French economy in the face of the American pension funds: what lessons for the retirement pensions system?]”, a report of the Council for Economic Analysis submitted to the Prime Minister.

\textsuperscript{15} Interview with Mr Sapin in \textit{Le Monde}, 5 January 2000, p.5.
taking part in electoral politics or organized public policy actors: this majority can only include different, divergent – even contradictory – interests by ‘aggregating’ or drawing them together. Therefore, vagueness surrounding the meaning of these measures and divergent interpretations of the solutions adopted do not appear to be parasitic on clear, rational action, but lie right at the very heart of their political functionality. In a sphere as legitimate as social protection and involving such a variety of actors, a measure that was too unambiguous could not be adopted. The measures that pass are those that handle the different interests in play carefully through their peculiar polysemy, by being subject to several possible interpretations.

Studying the processes of developing and adopting these measures shows that here it is less a matter of the work of a group of actors sufficiently skilful to present things so as to please everyone, than of measures being developed gradually in the course of repeated interactions, where each actor may veto certain options and help others along. Participant observations and interviews reveal that, beyond the particular expectations of some individual actors, it is not possible to pick out a homogeneous group of actors – “mediators”, to use Pierre Muller’s concept (1990) – that has played a preeminent role in the preparation and adoption of these measures. Conversely, it is possible to locate multiple influences that contribute not only to the complexity and polysemy of the measures, but also to their acceptability. Generally, it is still possible to identify several groups of actors who have helped to develop a public policy measure. But it is less interesting to work out which group is actually dominant than to examine what has made several groups come together around the same public policy instrument. Understanding why a public policy measure has been adopted therefore means analyzing its capacity to bring together divergent, even contradictory, interests, through an understanding of the polysemy of its content, based on what Bruno Jobert describes as “soft ideology”\(^\text{16}\).

Rather than seeking to work out the meaning of a measure at the moment of its preparation and adoption, we should rather try to grasp its possible meanings, in order to understand how an ambiguous agreement could have been created around it. Indeed, it is analysis of how measures are implemented that clarifies their meaning. We shall now see how the growth of funded pensions has gradually taken place in France, both through government policies and through the private behavior of the French people.

II.4 The gradual development of retirement savings schemes

Apart from the debates, several factors demonstrate that France is becoming involved in the gradual development of retirement savings funds. We have pointed out that optional funded pension schemes already exist for some occupational categories. In addition, the French have increasingly been counting on their personal savings to supplement their future pensions. Finally, in the early 2000s, several laws were passed in the aim of promoting and developing saving for retirement.

Fears about the amount of pensions offered by PAYG pension schemes are reflected not only in the polls. The French have already taken note of the poor future of these schemes: the rate of savings intended to constitute a retirement pension grew over the 1990s, even though their purchasing power did not progress. If we analyze changes in the composition of the assets of French households, we see that the part played by savings intended for retirement (life insurance and retirement pension savings proper) increased during the 1990s, a period of intense

\(^{16}\) “The more ambiguous or polysemic certain ideological themes are, the more likely it is that diverse social groups will be able to build a consensus on them. The social compromise at the basis of the welfare state was founded on ambiguities of this type”: Jobert, 310.
debates and challenges to the system of PAYG pensions. Thus, while 31% of French households had such assets in 1986, by 2000 the figure was 46.6%.

Today, almost one household in two is saving for retirement. Twenty per cent of households aged between forty and fifty have retirement savings proper. The rate reaches 31% for professionals and almost 24% for farmers and small shopkeepers, and is nearly 20% for managers (INSEE 1999, 294). Failing pension funds proper, life insurance is the substitute most used by households to prepare for their retirement, since it allows the formation of capital with a fairly good return (5.4% in 1999) and attracts tax concessions. Investments in life insurance plans increased over the 1990s. “In 1997, life insurance represented 18% of all investments, as against less than 5% ten years earlier” (INSEE 2001, 147). More generally, “the proportion of financial assets (bank savings, securities, life insurance, etc.) has been building up for 20 years, and today represents half the wealth of private individuals, while the significance of land reduced continuously throughout the period (3.5% in 1997)” (INSEE 1999, 279).

Therefore, even before any government had adopted a law on the general use of retirement savings funds, this type of saving had tended to develop, solely because individuals were anticipating the reduction in PAYG pensions. But governments have also taken decisions that promote such developments.

A first legislative attempt to make optional private pension funds generally available was made in 1997: the loi Thomas [Thomas Act], which was blocked only by a change of political majority. The new Prime Minister, Lionel Jospin, then indicated that he would prevent this going through because it risked “endangering the system of PAYG pensions” by providing for employers’ matching contributions to these pension funds to be partially exempt from social security contributions, thus diverting income from the PAYG system. The decrees implementing the law were blocked by the Jospin Government in 1997; the law was repealed in 2001.

However, the Jospin Government also helped to lay the groundwork for funded pensions. Although he had repealed the Thomas Act and denied that he wanted to develop pension funds, Laurent Fabius, Minister for Economic Affairs and Finance in the Jospin Government put a law through Parliament to establish “voluntary save-as-you-earn partnership plans” (Plans partenariaux d’épargne salarial volontaire, or PPESVs). These must allow wage earners who want to do so to save over the long term (ten years, or more by collective agreement), with tax concessions and possibly employers’ matching contributions. The sums accumulated by the wage earner can be paid out in the form of capital or else “fragmented” (Parliament wanted to avoid the notion of an annuity) – this is a funded pension by another name. However, even though it restores power to French workers and French funds to French businesses, it is not explicitly intended to supplement the pensions of all French people. The Raffarin Government decided to transform these plans into “voluntary retirement savings partnership plans” (Plans partenarial d’épargne salariale volontaire pour la retraite, or PPESVRs), which are closer to supplementary retirement pensions. Unlike a PPESV, which lasted ten years, the sums paid into a PPESVR will be locked in until the person concerned retires.

Moreover, even though this topic was not at the center of debates around the Fillon reform of Spring 2003, the government has also provided for setting up PERPs. The PERP is conceived as an insurance product, managed on the financial markets by an insurance company, a bank, an occupational benefits institution or a mutual under the control of a supervisory committee drawn from individual members of the Individual Retirement Savings groups, which have the status of associations. It is designed to receive individual savings and then, after retirement, pay a lifetime annuity. As in Germany in 2001, the government has provided tax incentives to promote retirement savings. Thus, we can see the path that has led to a law being adopted in
France enabling the emergence of funded pensions (initially conceived as supplementary pensions).

II.5 Cumulative changes

As with other measures – like the RMI or the CSG, at first marginal within the French system of social protection – these new measures have been introduced at the periphery of the system, primarily to make good its deficiencies (here, to compensate for the future fall in PAYG pensions). New measures most often develop very gradually, appearing at first on the margin before coming to play an increasingly large role (sometimes different from their initial role) within the social protection system. The development of a new instrument within a particular social protection system may in fact signify an overall change, through the phenomenon of “layering” that Kathy Thelen has analyzed so well (2003).

The French situation in relation to pensions, which is marked by a relative status quo and some difficult reforms, has remained on the path traced by Bismarckian pension institutions. New measures are very difficult to implement where different groups of wage earners with particular advantages have opposing interests. In order to go through, reforms must be negotiated with employers and trade unions on the basis of a distinction between what comes under social insurance and what comes under non-contributory national assistance. They aim to strengthen the contributory nature of insurance-based pension schemes. They signify a change in the instruments used, with old-age pensions no longer functioning on the deferred wage model, but rather on the savings model: to each according to the amount of contributions actually paid. Moreover, restricting the coverage offered by basic old-age pension schemes implies the development of individual funded pension systems, and, for those who have not been able to contribute enough, an increasing dependence on means-tested benefits.

These reforms are part of a logic of actuarialization17 of social insurance, bringing it gradually closer to private individual insurance: the amount of retirement pension is more often calculated with reference to the amount of contributions paid, less often with reference to wages previously received. This logic implies a reduction in the redistributive function of old-age pension schemes (those most disadvantaged by these reforms are employees who have had interrupted careers or faced inequalities, notably women). We find here a dynamic of gradual commodification of social insurance, which has also been characteristic of changes in Anglo-Saxon-type social protection systems (Pierson 2001, 455). However, there is a long way to go before France reaches the situation of the UK, for example.

To grasp the changes under way in pension systems, however, we should not focus just on reforms (whether complete or incomplete) of public, compulsory pension systems alone. An analysis of the French situation that includes the behavior of households emphasizes that, even though the French system is one of the hardest to reform, profound changes are in train and these are tending to favor the development of private pensions. This can only be perceived by examining the (symmetrically inverse) relationship between compulsory PAYG pensions and private savings intended for retirement.

Generally, the reforms in pension systems that proliferated in Europe during the 1990s created an opportunity not only to adapt pension systems but also to restructure them in the direction

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17 This neologism refers to the fact that the calculation of public pensions is increasingly carried out using the model of the actuarial calculation that applies to private insurance. This calculates the amount of an annuity according to the amount of contributions paid, the rates of interest from which investments made with these sums have benefited, economic conditions, and the life expectancy of the person receiving the annuity at the time the pension is first paid out.
of a larger role for funded pension mechanisms. Despite the strong institutional differences characteristic of European countries, the developments of the 1990s are an integral part of a shared logic, which sees a reduction — in relative terms — in the importance of PAYG pensions as a means of achieving financial transfers to old people, in favor of funded pensions (Palier and Bonoli 2000). Each country follows its own path in reforming its pensions system, but does so in a new shared landscape, structured by an overall model of a system where funded pensions play an increasing role.

The gradual transformation of all pension systems relies on the same “feedback” mechanism, which operates in two stages. In the first place, the level of income replacement offered by basic collective retirement pensions has diminished. This shrinking of basic schemes opens up space for the development of supplementary funded pensions: where the benefits from basic schemes are reduced, an expansion in the role of funded pensions, or at least strong pressure in that direction, is to be expected.

In a context of uncertainty about the future of PAYG pension schemes (because of the proliferation of demographic forecasts and the political scare-mongering that surrounds their publication) and of gradual reduction in the benefits they offer, the 1980s and 1990s saw an increase in private outlays on old-age pensions. Although reforms of PAYG systems aim primarily to ensure their financial viability now and in the future, they also contribute — because they involve a drop in income replacement rates — to the development of private pensions. This dynamic seems to have been at work in various European countries since the mid-1980s, as we can see if we do not focus, in conventional fashion, on the politics of pension reform, but instead analyze carefully the debates about and challenges to the existing system, as we track the development of new public policy instruments.
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The American State and Social Engineering: Policy Instruments in Affirmative Action

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The American or US State is conventionally depicted as inactive and organizationally weak compared with the State in other industrial democracies, and sometimes as weak compared with the private sector’s capacities to effect change (Evans et al 1985, Dobbin and Sutton 1998). On Peter Nettl’s (1968) famous scale of ‘stateness’ the US was by far the least state-like of Western democracies, in terms of Weberian criteria of bureaucratic development, administrative resources and public sector capacities. But this Weberian framework is too limiting for the US case. It masks or overlooks a good deal of policy intervention and direction originating in the late nineteenth century and escalating through the years of the New Deal, war mobilization and the Great Society. In this paper I examine the way in which measures to implement affirmative action or positive discrimination have been employed through the policy instrument of quotas to re-engineer the divisions between key groups in American society, groups based on race and ethnicity. Placed in appropriate historical context, affirmative action illustrates a powerful activism associated with the American State conceived of as an institution which engages in the setting and monitoring of standards. As a policy instrument of the federal government, the system of quotas linked to affirmative action was formulated in the 1960s. It has been implemented since then in a federal policy which sets comprehensive targets and specifications affecting both the public and private sectors (Skrentny 1996, 2001, 2002, Sabbagh 2003, 2004, Drake and Holsworth 1996).

Historically, the term “State” is considered problematic when applied to the USA (except perhaps in foreign policy, Krasner 1978). The horizontal separation of powers between the executive, legislature and judiciary often preclude the identification of a national source of authority in the way commonplace to centralized states, a tendency strengthened by federalism. The dominant emphasis in the polity’s political culture is that of being a strong nation with a weak state, that is, a political system less centralized, less interventionist, and less bureaucratic than that found in comparable advanced democracies, including those with strong federal systems such as Australia or Germany. But reluctance to use the term ‘state’ has gradually dissipated as major scholarly works by social scientists and historians have exposed the limits of perpetuating the presumption of American exceptionalism in respect to its State (Skowronek 1982, Weir and Skocpol 1985, Karl 1983, Skocpol 1992, Brinkley 1995, Rung 2002, Stears 2002). Disagreement about nomenclature cannot mask the growth of the most powerful nation in the second half of the twentieth century which is expressed in commonly identifiable indicators of statehood (Nettl 1968, Gonzalez and King 2004) from the highly measurable, such as level of expenditure (Kettl 2002, Light 1999) and military capacity, to the highly symbolic, such as myths about being ‘one people’ (Gerstle 2001, Stuckey 2004).

What makes affirmative action especially valuable for a discussion of policy instruments, to illustrate the activism and intervention of the US State, is the scale of policy change its proponents envisage, despite often modest expectations amongst its early champions. Affirmative action does not involve simply either a uniform regulation across the US (for instance that no guns may be carried within a certain distance of schools) or a behaviour driven measure (for instance raising the drinking age to 21 in all states to tackle drunken teenage driving). Rather the policy of affirmative action mixes several aims including bolstering barriers against racial and gender discrimination, fostering new practices in the workplace and in public institutions such as schools, creating social relations of a different character for America’s future by modifying how groups perceive each other and denuding historical injustices of their political salience.

This range of ambitions makes it more difficult, though not impossible, to measure the success or effectiveness of affirmative action. Certain indicators – such as the number of women or members of groups previously discriminated against in higher education or senior man-
agement or senior federal administration (Aberbach and Rockman 2000) – can be constructed but these will not measure the more nebulous aspects of affirmative action such as changed attitudes and a future societal trajectory shaped by its terms. To achieve purchase on this complexity I focus on a single policy instrument, quotas.

Better to understand the scope of affirmative action it can be usefully compared with another systematic incident of social engineering, that of eugenic breeding, the main instrument of which was sterilization, a practice supported by the federal government (Trent 1994) and enacted by state governments between the 1920s and 1960s, and legitimated in the US Supreme Court judgment, *Buck v Bell* (274 US 200 1927). Although both affirmative action and eugenic breeding had similar ambitions to effect major transformations in fundamental aspects of the American social order they had one major difference. The eugenic project presumed the validity of differentiating hierarchically between groups in terms of race and ethnicity, and sought to entrench that vertical hierarchy through a policy of sterilizing the unfit and inferior. Advocates of affirmative action reverse this assumption seeking to build a non-hierarchical order in which groups enjoy horizontal equality and in fact will eventually wither away as policies of preferential treatment cancel historical fetters upon equality of individual opportunity and outcome.

‘Policy instrument’ means tool of government or state policy. It assumes relevance as an expression of policy instrumentation. Politicians and policy makers identify policy instruments as means to effecting ends (Hood 1983). Lascoumes and Le Gales define a public policy instrument as “a device that is both technical and social, that organizes specific social relations between the state and those it is addressed to, according to the representations and meanings it carries” (Lascoumes and Le Gales 2006:). In respect to affirmative action, this end is a daunting one – a social engineering of society to redress enduring historical injustices and to establish barriers against future harms. Such efforts are intended to redraw the boundaries of membership of the polity to strengthen the bases of citizenship, particularly for those Americans who find themselves distinguished by others in terms of race, ethnicity or national background (see King 2005). The policy of eugenic breeding was also designed to redraw boundaries but in a hierarchical way (Gallagher 1999).

The paper is structured as follows. In the next section I identify six factors which help social engineering exercises to gain momentum and succeed politically. Comparing affirmative action with eugenic breeding is a useful way of demonstrating how these factors operate temporally, though this comparison is not intended to imply any constancy in the causal factors. I then place the policy of affirmative action in the context of a group bounded polity in which relations between groups as members of a single society are renegotiated over time. This discussion is a prelude to a detailed overview of the development of the key policy instrument for affirmative action –quotas - in the major areas of employment, university admissions and business ownership. I then conclude the paper.

**I. Eugenic Breeding and Affirmative Action**

What factors justify social engineering programmes? Why do they become part of the political agenda? To consider the circumstances under which social engineering projects garner support it is useful to think about the eugenic breeding and affirmative action initiatives in terms of six factors. To some extent this concatenation of factors creates a critical juncture in policy making when a particular course of public policy is set and its realization locked into a selected policy instrument.
First, we can attend to the nature of the perceived problem addressed by the social engineering exercise. For eugenicists it was the corruption and dilution of the American ‘race’ by inferior immigrants and so-called ‘feebleminded’ parents which excited their concern (Kevles 1986, Black 2003, Grekul, Krahn and Odynak 2004). For affirmative action advocates it is the persistence and depth of inequalities rooted in the legacies of the US’s history, specifically its mistreatment of African Americans but also other groups such as American Indians and many Latinos and, from 1967, women: without action to remedy these entrenched inequities they would endure and reproduce. Thus each exercise in social engineering posited a clearly defined problem and stressed the deleterious implications for American society if the problem remained unaddressed and was allowed to fester. Thus social engineering projects are associated with definable social philosophies about the social order: egalitarianism in affirmative action, hierarchy in eugenic breeding.

Second, once the problem is defined the role of experts and of expert knowledge in defining the problem and solutions is often crucial in determining the way in which policy instruments are developed. This is an important contrast between eugenic breeding and affirmative action. In respect to eugenic sterilization experts campaigned long and hard marshalling data in support of their cause. Expertise in respect to affirmative action was generally more tentative: there was great conviction about the seriousness and urgency of a problem – entrenched historical patterns of inequality – which had to be addressed, and politicians from Lyndon Johnson through Bill Clinton and former Secretary of State Colin Powell have underlined its significance. But settling upon a course of action to deal with this was more tentative; however, once quotas were agreed upon as a policy instrument they were defended by experts, particularly lawyers and human resource managers.

Third, how politicians and policy makers respond to the varying political opportunities to pursue or challenge social engineering projects is obviously decisive to their success or failure. Eugenicists enjoyed many advocates and supporters in government as have those advancing affirmative action measures (King and Hansen 1999). Crucially both initiatives benefited from cross-partisan support at key moments, especially in their early stages. Furthermore, in both cases the U.S. Supreme Court provided endorsement at key moments in the adoption of policy, legitimating the policy but specifically the measures chosen as policy instruments to achieve them about which some Americans had real doubts. The Court has a singular constitutional authority in the US polity.

In its decision, Buck v Bell (274 US 200 1927) the US Supreme Court upheld a state law from Virginia permitting the use of sterilization to prevent designated persons reproducing. The Court famously declared that ‘three generations of imbeciles” were sufficient. This ruling, which remained in place until the 1970s, enabled 27 states to adopt similar sterilization laws (and close to 60,000 Americans were sterilized) (Black 2003). In respect to affirmative action the US Supreme Court issued decisions upholding the implications of the 1964 Civil Rights Act, particularly Title VII banning job discrimination. In Griggs v. Duke Power Co (401 US 424 1971) the Court found against the use of intelligence tests in making decisions about whom to hire since even if they were neutral such tests often operated to “freeze” the status quo of discriminatory practices. As a consequence of this judgment employers had to demonstrate statistical parity between the racial makeup of their employees and the local population from which the work force was drawn. In Fullilove v. Klutznick (448 US 448 1980) the Court held ‘set asides’ – that is, setting a percentage of jobs directly eligible for minority candidates only – to be constitutional.

This minority business enterprise ruling made clear that the federal government had greater authority than either state or local governments to require the adoption of instruments of af-
firmative action in certain circumstances. It demonstrates the active US State. And as is well known there have been significant judicial rulings about the constitutionality of quotas in admission to universities with the most recent (2003) Court decision permitting race to be a factor in university administration decision making about allocating university places though now finding explicit race quotas unconstitutional.

Thus the Court has been a key actor in the evolution and implementation of affirmative action just as it was for eugenic breeding. It constituted a political opportunity structure largely favouring social engineering and its constitutional authority once invoked in a ruling is not easy to overturn.

A fourth factor in each case is the nature of the target population and in particular its political strength or weakness. Here there is a fundamental difference between eugenic breeding and affirmative action experiments in social engineering. Eugenicists targeted the marginal and weak in society, determined to excise their reproductive powers in the pursuit of a racially pure and stronger national stock. In contrast affirmative action measures are designed to enhance the presence and capacity of their target population’s participation in American society and in direct reverse to eugenics, to make their future participation much greater. But like victims of eugenics, the target population for affirmative action by definition occupy politically weak positions in the polity.

Fifth, the practicality and validity of the policy instruments available to advocates of these two efforts in social engineering are important. Here there are similarities in that advocates of each exercise promoted a set of carefully specified and easily comprehended policy instruments (and in the case of eugenicists claimed scientific validity for their deployment). Eugenicists singled out sterilization as a key policy instrument to effect their aim of a better demographic future as they saw it. Affirmative action advocates have found in the measures of preferential employment expressed in quota places in public institutions such as universities, public sector agencies and federal contract holding private employers an equally strong policy instrument for realizing their ends. Counting and measuring are crucial to both instruments since they permit monitoring and evaluations of success.

Last, the political power or weakness of opposition – or even the existence of opposition - is crucial to achieving social reform on the scale of these two programs. In both cases critics were wrong footed and politically weak at key stages in the policy’s development. There were critics of the scientific validity of eugenic arguments for sterilization as an effective tool of ‘race’ reproduction and critics of the basic assumptions guiding their scientific analysis. The fundamental concerns of these critics were vindicated in due course but not before eugenicists had persuaded federal and state law makers to implement schemes based on their flawed scientific arguments and evidence.

Critics of the use of quotas as a means to pursue affirmative action voiced concerns in the 1960s but were muted by a political atmosphere in which such questioning quickly provoked charges of racism and discrimination. In the 1970s it was the Republican administration of Richard Nixon which over-saw a decisive push in quotas based policy to realize his Democrat predecessor’s commitment to affirmative action. The basic position of critics has endured – that any system of preferential treatment commits new injustices against worthy competitors and fails to deliver the promised amelioration – and has gained support with the expansion of affirmative action quotas. The African American scholar Glenn C. Loury captures a common complaint about policy instruments such as quotas: “affirmative action has a paradox: blacks seek equality with whites, but by accepting special treatment, they call attention to their own limitations. Meanwhile, by the very act of granting black demands, whites exercise a noblesse
oblige available only to the powerful. While equality is the goal, this manifestly is not and
never can be an exchange among equals” (2004).

In respect to each of these six factors considerable differences distinguish the examples of
eugenic breeding and affirmative action. Eugenicists marshalled extravagant claims about the
ability of measures such as sterilization to shape future generations, and based these claims on
so-called scientific evidence. Champions of affirmative action instruments like quotas were
more modest about scientific evidence. Rather it was upon the inherent importance of the case
to address enduring and deep historical inequalities their arguments rested. Furthermore,
without addressing these historical legacies, they argued, the US would simply face increasing
inequality and more of the same. This was a point Lyndon Johnson underlined as president
and after he left the White House in 1969: civil rights legislation could not magically conjure
up a level playing field for groups in American society who had been the victims of system-
atic efforts to segregate, marginalize and under-educate them. In December 1972, weeks be-
fore he died, Johnson spoke to a civil rights conference in Austin, Texas and accepted that the
“‘black problem today’” was not a local problem but one confronting “‘this whole nation.’”
Progress required overcoming this “‘unequal history,’” an experience applicable to other

But there are some points of similarity between eugenic breeding and affirmative action ini-
tiatives despite their supporters’ commitment to obverse conceptions of the social order. Both
programs benefited from the horizontal separation of powers in the US polity with the judicial
system providing decisive support for their policy instruments at key moments. Furthermore,
each program benefited from clearly formulated policy instruments – eugenic sterilization and
preferential treatment respectively – which could be measured and assessed over time. These
similarities alert us to how useful social engineering programs are projects in which policy
instruments become paramount in the way analysed by Lascoumes and Le Gales when they
write, “‘public policy instrumentation is. . .a means of orienting relations between political soci-
ety (via the administrative executive) and civil society (via its administered subjects), through
intermediaries in the form of devices that mix technical components (measuring, calculating,
the rule of law, procedure) and social components (representation, symbol)” (Lascoumes and
Le Gales 2006: ). Because social engineering projects envisage very substantial change in the
relationships between existing groups a clear policy instrument is vital to the cogency of their
advocates’ case. This point can be seen more fully by appreciating how social engineering
seeks to restructure group based boundaries of political membership.

II. Social Engineering and the Boundaries of Membership

Both eugenicists and advocates of affirmative action want state policy employed to redefine
the position of some members of society. This task occurs within historical contexts shaped
by the US’s group based ideology of nationhood (King and Smith 2005, Smith 1997). It is the
boundaries of these group divisions which prompt social engineering. This can be illustrated
in respect to the historical pressures driving such initiatives as affirmative action.

Challenges to revise the boundaries of internal membership, to enrich senses of belonging and
thereby to renew the American nation take several forms. Proponents of change are motivated
by the ways in which the language and practice of group distinctions, often associated with
inequalities, shape nation building in America.

First, there are revisions to give or withhold some groups from the rights of citizenship. The
wartime treatment of Japanese-Americans illustrates the latter while African-Americans’ fight
for civil rights is an instance of the former. Enlarging inclusion is the most familiar type of
revision and dominates the conventional narrative of America’s shift to democratic inclusiveness. But revision can also be exclusionary as some Arab Americans have recently found and as judicial rulings about legal aliens since the Patriot Act 2001 and the President’s Executive Order issued on November 13 2001 permitting detention and military trials for non-citizens accused of terrorism attest (on executive orders see Mayer 2001). (Eugenicists were plainly committed to an exclusionary trajectory.)

Second, boundary revision can involve some specific redress or remedy or compensation for an identifiable violation of legal rights or for an historic injustice. The success of Native American claims about treaty violations is a case of such revision as is the payment of compensation to victims of sterilization by American states.

Third, boundary revision can be undertaken to anticipate and preclude future inequalities or violations. Measures taken under this ambitious strategy can also themselves become sources of future conflicts about group membership and the parameters of democratic inclusion. Affirmative action policies are a case in point: their rationale is to improve the future prospects of those eligible for these benefits but their implementation stokes existing lines of group cleavage and for some Americans forge new tensions (Davis 2002, Huntington 2004). Minority-majority electoral districts are equally fraught (Canon 1999).

Common to each type of boundary revision is a shared assumption: group hierarchies are an inadequate basis for a genuinely inclusive ideology of nationhood given America’s community of groups. Yet Americans’ and America’s beliefs about group hierarchies have a deep hold in the nation: just as the Supreme Court upheld color-blindness so it accepted color-conscious policies to address the effects of failure to achieve the former. Indeed, the endurance of group distinctions in itself encourages the retention of hierarchical assumptions, usually with fixed views about the un-suitability of some groups to be full members. Compensation and reconciliation measures are designed to deepen the affected individuals’ and groups’ sense of belonging and membership in the ‘one people’ nation by expunging and recognizing the damage of earlier episodes in nation building. To move forward as a “one people” requires remembering how group diversity and nation building has been inadequately reconciled in the past.

Understanding the demands and effects of boundary revisions is often associated with the Commencement speech delivered by President Lyndon Johnson at Howard University in 1965 when the university bestowed an honorary degree on the president. Johnson made justice for African-Americans a federal priority, as a response to the historic injustice experienced by these citizens. The President declared, “in far too many ways American Negroes have been another nation, deprived of freedom, crippled by hatred, the doors of opportunity close to hope.” Signalling great optimism, Johnson concluded that “it is the glorious opportunity of this generation to end the one huge wrong of the American Nation and, in so doing, to find America for ourselves, with the same immense thrill of discovery which gripped those who first began to realize that here, at last, was a home for freedom” (Johnson 1965).

But the implications of Johnson’s address were wider than simply setting an agenda for African Americans. Un-intendedly the speech cast a light on many aspects of the nation building process and of how membership and international influences, especially as a consequence of America’s standing as a model of liberal democracy, mediated the content of nationhood; and the speech conveyed, though perhaps in ways the President failed to appreciate, just how far boundaries of membership would need to be revised to make democratic inclusion of equal importance to assimilation in American nationalism. Thus although his speech addressed the circumstances of African Americans only, it had implications for Native Americans, Mexi-
can-Americans and other groups historically distinguished by race, ethnicity or national background.

III. Quotas and the Development of Affirmative Action.

The principle of affirmative action posed a formidable challenge to its advocates. What policy instrument could possibly compensate for decades of historical injustices and discrimination against African Americans and other minorities in the United States?

A taste of the problem emerged during the Second World War when President Franklin D. Roosevelt established a fair employment practices committee (FEPC) and issued an executive order banning job discrimination on the basis of race. These measures were responses to a threatened mass mobilization by African Americans in Washington at a time when their labour was vital to war mobilization (Kryder 2000). The FEPC proved to be a forum whose proceedings un-masked profound and systematic discrimination against African Americans in most public and private sector employment sources. Its members heard complaints from discriminated workers and issued injunctions to employers to desist discriminatory behaviour; it was temporary and its instructions were often ignored.

The issues confronted by the FEPC did not evaporate; in fact they intensified as the civil rights movement mobilized from the 1940s forcing judicial overturning of segregation (in the 1954 Brown case) and eventually passage of the Civil Rights Act 1964 and the Voting Rights Act 1965. The US federal government was much exercised about employment equality within its own ranks and wrestled with the question of how to respond in a way which tackled enduring historical injustices. The dilemma, ultimately resolved in affirmative action and preferential treatment, was anticipated by the Executive Secretary of the President’s Committee on Government Employment Policy as he contemplated, in 1961, how best to redress the massive segregation imposed upon African Americans in the civil service. “A mere head count showing the absence of negro personnel simply is not enough information upon which to make a judgment, for the reason may be, and in many situations is, the absence of Negroes on certificates which the agency is using.” He recognized the mounting pressure for some sort of affirmative action or preferential treatment scheme:

Our critics would then say that the hiring practices of the agencies should be reviewed. But to do this either we or the agencies must be able to identify, through a review of certificates, those Negroes who have been considered and determine whether or not they have been passed over. With the absence of any identifying racial information on the certificates, it becomes impossible to review past practices. The only possibility lies in a current review on a day-by-day basis, based almost entirely on identifying those Negroes who appear for personal interviews. Even if such identifications are made (and it may be possibly to do so) there remains the further problem of determining the relative significance of those Negroes passed over as compared with the whites who were hired before any finding of discrimination can be made. On any large scale this would be a very involved process.

To correct such a pattern required a different course: “the only alternative to this difficult process that I can see at present is simply to take the position that where there are no Negroes there ought to be some, and direct the agencies to find and employ them.” But this strategy was also problematic: “this comes close to the ‘quota’ idea, and in any event would put the program in the position of deliberate preference for Negroes” (quoted in King 1995: 209 cit-
ing the President’s Commission on Government Employment Policy records in February 1961).

This exposition anticipated many of the problems in ensuring equal opportunity for African Americans in the Federal government. There was evident anxiety about using a racially based quota hiring system as the principal policy instrument for achieving equity of employment but no obvious alternative presented itself to monitor and demonstrate enforcement.

Such a quota system however, or some policy instrument like it, was not an automatic implication of the 1964 Civil Rights Act. Title VII of the 1964 Act disallows any discrimination, by any public agencies, private employers (with more than 15 employees) and labour unions, on the basis of race, color, religion, national origin and sex. Instead quotas became a logical policy instrument as a consequence of President Johnson’s initiatives to achieve affirmative action. Thus, Executive order 11246, issued by President Lyndon Johnson on September 24 1965 set out the principle of affirmative action as a goal to be realized subsequent to the passage of civil rights legislation.

The term ‘affirmative action’ had been formulated by a young African American lawyer in Texas, Hobart Taylor Jr, at then Vice President Johnson’s request at the time of executive order 10925 establishing the President’s Committee on Equal Employment Opportunity (in 1961). Taylor recollected his formulation: “I was searching for something that would give a sense of positiveness of performance under that Executive Order and I was torn between the words “positive action” and the words “affirmative action.” And I took “affirmative” because it was alliterative”’ (quoted in Lemann 1999: 162).

Executive order 11246 set out the prime policy instrument to address historical injustices toward African Americans and other minorities and rather than simply confirming the anti-discrimination measures in the Civil Rights Act, the Order required active responses by private firms receiving federal grants to address patterns of hiring discrimination (monitored by the Office of Federal Contract Compliance in the Department of Labor). However the specification of this policy instrument was quite general in its early formulation. Thus, among its measures, EO 11246 “enjoined government contractors and others receiving government funds to promote hiring of blacks and other minorities.” At the time this instruction presented a relatively low-cost solution to the challenge of integrating African Americans into society not just in terms of equal civil rights but in terms of overcoming economic inequalities.

But EO 11246 also pointed policy toward a quantification approach since to be in receipt of federal funds through contracts employers needed to demonstrate that their hiring practices complied with the requirement to hire African Americans. It is difficult to imagine how this compliance could be assessed without some resort to the compilation of statistical data about the racial (and ethnic and gender) profile of a given firm’s workforce, especially relative to the composition of the local workforce; and as we will see the US Supreme Court, the key interpreter of policy instrumentation in affirmative action, also came to rely on a quota based understanding of this agenda. Such an approach was anticipated in the remarks of the 1961 President’s Committee cited above.

This quantification bias has two immediate effects. First, it imbues racial and other demarking categories with policy significance seemingly at variance with the color-blind and anti-discrimination thrust of the Civil Rights Act of 1964. Second, it makes quantifiable and quantified data a central indicator of policy success and therefore a part of social reality (Desrosieres 1998). Such data is the lifeblood of administration in Western states. In any official assessment of a policy such as affirmative action such data, including its updating and augmentation, plays a central role.
Executive Order 11246 applied to other minorities too and, from 1967, to women. Expanded decisively by the Nixon administration (through his support of the trade union Philadelphia Plan for hiring minority workers as apprentices on federal contract work), the major policy instrument of affirmative action quickly became specifying targets or quotas in a range of areas which had to be satisfied: thus holders of federal contracts had to employ a certain percentage of African Americans and other minorities; the Federal government’s and state governments’ workforce had to be made representative of America’s minorities; and admission to universities, particularly state universities was recast to provide preferential access to members of ethnic minorities even when such preferences admitted candidates with lower test scores than some white applicants. This last measure has reverberated for critics of affirmative action and is a policy they have struggled to dismantle.

Quotas to achieve affirmative action have thus been implemented in several areas of American life. I deal in detail with that of education below but preliminarily it is important to underline the importance of the US Supreme Court in facilitating this diffusion of affirmative action. Although Title VII of the 1964 Civil Rights Act enacted a ban on job discrimination based on race, sex or national origin, in fact the program of affirmative action required combining this color-blind principle with a quota based system premised on recognizing race or other differences (Lieberman 2002). This paradox is part of American history. And the Court has been a key agent accepting the constitutionality of this paradox. We have already noted the Court’s decisions in Griggs v Duke Power Co (1971) and Fullilove v. Klutznick (1980) permitting set aside quotas. In Metro Broadcasting Inc. v Federal Communications Commission (497 US 547 1990) the Court upheld, by 5-4, the right of Congress to enact policies that favoured minorities; in this case the ruling concerned ownership of broadcast licenses. The FCC wanted to extend licenses and thereby increase diversity of ownership among black, Hispanic surnamed, American Eskimo, Aluet, American Indian and Asiatic American groups.

But since the 1980s the Court has adopted a more restrictive approach to the use of quotas as a policy instrument in contract enforcement. Thus in Richmond v. J. A. Croson Co (488 US 469 1989), the Richmond city council’s set aside ordinance (the Minority Business Utilization Plan), which required white contractors who received city construction contracts to employ minority subcontractors and suppliers for at least thirty percent of the total dollar amount, the Court rejected the plan as unconstitutional. The Justices ruled by 6-3 that such a policy instrument conflicted with the Equal Protection Clause of the Fourteenth Amendment. The Court established a strict scrutiny standard applicable to all such schemes defined by three criteria: scepticism, any preference for a racial group had to be examined carefully; consistency, any measure had to be consistent with the Fourteenth Amendment; and congruence, any measure should satisfy equal protection in the Fifth Amendment too.

This standard was underlined further in the Adarand Constructors Inc v Pena (515 US 200 1995). In a 5-4 judgment the Court held that a 1990 Transportation Department programme which awarded bonuses to highway contractors who gave at least 10 percent of their contracts to ‘disadvantaged business enterprises’ failed to satisfy strict scrutiny. Indeed two justices expressed a preference to ban quotas but the majority justices accepted that the “lingering effects of racial discrimination” in US society justified some positive measures.

Adarand was a significant judgement. While the Clinton White House defended its commitment to affirmative action policy it also instituted, in response to the Court’s ruling, a review of federal programmes to end any which created quota requirements. That the Court is deeply divided about the use of affirmative action as a policy instrument is suggested in comments from one of the five majority justices in Adarand, Sandra Day O’Connor when she wrote, “we wish to dispel the notion that strict scrutiny is strict in theory but fatal in practice.” The
persistence of racial discrimination means the Court has to take account of this problem in reaching its judgements in decisions about affirmative action quotas.

Despite the continuing legal wrangles about the appositeness of quotas as a policy instrument for affirmative action, the pursuit of such quotas in federally funded contracts to private employers and public agencies since the 1970s has induced a sea change in employment practices. Most private firms, and especially those with large numbers of employees, have instituted some sort of employment strategy to accommodate the pressures associated with affirmative action demands. Many have appointed affirmative action officers or diversity officers and set out in written form the equal employment opportunities which they aim to satisfy in their hiring practices and promotion reviews (Dobbin and Sutton 1998, Dobbin, Sutton, Meyer and Scott 1993). These are generally still linked to a quota based framework – since this provides data which can be publicly defended as quantified evidence about affirmative action responsiveness – though increasingly described in terms of diversity management.

**Quotas in Education:** The US Supreme Court has played a central role in defining the limits and scope of affirmative action in university policy. Universities are often touted as an important medium of advancement in US society. Before the 1960s they were the bastions of white Americans. This was especially true of elite universities and prestigious graduate schools in law, medicine and business. A small percentage of African Americans had long benefited from black only colleges and universities but few had gained admission to elite institutions. Elite universities, public and private, recognized the impetus and implications of the laws enacted in the 1960s. Admissions officers hastened to widen their access criteria and to make their student bodies representative of the groups composing American society.

The first major judicial test of this strategy came in the famous *Regents of University of California v. Bakke* (98 US 2733 1978) in which a white student sued the Davis Medical School for failing to admit him to its medical school despite having higher marks on the entrance test than several applicants from ethnic minorities who were accepted because the school maintained a 16 percent minority quota. The Court’s judgment was less than pellucid. While the justices rejected as unconstitutional the use of quotas in admissions policy it permitted universities to consider race as one of several ‘plus factors’ in selecting applicants. Justice Lewis Powell wrote in *Bakke* that diversity “clearly is a constitutionally permissible goal for an institution of higher education.”

In 1995 the Regents of the University of California banned the use of race in admissions. Texas adopted a similar reversal of earlier admissions policy. The changes have reduced the number of minorities attending leading state universities, especially at the graduate level in law schools. But such reversals have been the dominant trend since the early 1990s.

On March 27 2001 a federal judge (US District Judge Bernard A. Friedman) rejected the use of race as a factor in higher education admissions ruling that the University of Michigan Law School’s practice of accepting minority students with lower grades and test scores than whites is not justified by the Law School’s commitment to achieve racial diversity. The justice rejected the university’s claim that racial diversity is a ‘compelling’ state interest and found the Law School’s admissions policy to be unconstitutional.

Friedman’s judgement was comprehensive. He articulated the objections of critics of quotas: “by using race to ensure the enrolment of a certain minimum percentage of underrepresented minority students, the law school has made the current admissions policy practically indistinguishable from a quota system.” He added, “all racial distinctions are inherently suspect and presumptively invalid. Whatever solution the law school elects to pursue, it must be race-neutral.. The haphazard selection of certain races is a far cry from the ‘close fit’ between the
means and the ends that the Constitution demands. If the law school may single out these racial groups for a special commitment today, there is nothing to prevent it from enlarging, reducing or shifting its list of preferred groups tomorrow without any reasoned basis of logical stopping point.” He found that white applicants with high scores were failing to win admission to the Law School when African Americans were admitted with lower scores.

Friedman’s decision conflicted with a decision in the same district court of appeals a year earlier which permitted the University of Michigan to use racial preferences in undergraduate admissions policy on ground of diversity. Both cases went to the US Supreme Court in 2003. The justices found the use of a race quota in admissions decisions unconstitutional but permitted as constitutional the use of ‘diversity’ factors by admissions tutors. In In v. Bollinger (No 02-241 WL 21433492 2003) the Court allowed the use of race in creating a diverse student body a Michigan’s Law School while in Gratz v. Bollinger (No 02-516 WL 21434002 2003) the Court disallowed Michigan’s affirmative action admissions policy for undergraduate selection. This dual decision was much less of a firm rejection of affirmative action quotas than its critics sought.

IV. Conclusion

The use of quotas in such areas as university admissions to advance affirmative action has been controversial in the US (Mendelberg 2000, Sniderman and Piazza 1993). Indeed, for it’s most ardent critics, quotas are as objectionable- principally because of their dependence on racial sources of political distinction - as eugenic sterilization would be to most Americans were its revival now proposed. I argue that that controversial status of affirmative action stems in large part from ignorance of the historical circumstances in which it originated, an ignorance which makes assessment of affirmative action as a policy instrument difficult.

Affirmative action is not something designed and implemented in a historical vacuum – it has been a social engineering initiative responsive to the persistence and entrenchment of historical inequalities and racist legacies. This context places affirmative action quotas at the most extensive end of the fivefold policy instruments framework developed by Lascoumes and Le Gales and gives weight to their observation that “every public policy instrument constitutes a condensed and finalized form of knowledge about social control and ways of exercising it” (2006). As a policy instrument, the idea of quotas has the appeal of being measurable and a means of setting out achievable targets. For its critics of course that very measurability is crude, produces distorted outcomes harmful not only to those passed over despite qualifications but also to those given the advantages of preferential treatment. But as Lascoumes and Le Gales note since “it is exceptional for a policy, or even a program for action within a policy, to be noninstrumental” (2006: ) it is hardly surprising that affirmative action quotas have had such a dichotomous political impact.

There are two aspects of the US’s historical context which impinge especially upon the emergence of affirmative action as a policy and quotas as a policy instrument to address historical injustices. First, until the 1960s the US was a hierarchical group bound society (maintained through judicial rulings) in which the aspiration of equality of opportunity and treatment was just that for many Americans – a rhetorically empty aspiration. This set a historical agenda for renegotiating the boundaries between groups’ membership of the American polity. Second, as Nicholas Lemann (1999) has shown the shift to standardized testing in admissions decisions by universities, formalized from the 1960s, conflicted directly with the expectations of historical compensation mobilized in the successes of the civil rights movement. This was a particular and unforeseeable historical clash.
The former historical context – America’s legacy of hierarchical divisions - explains why affirmative action quotas rapidly assumed the qualities of a major social engineering exercise rather than becoming an incremental policy innovation. The latter effect – the shift in university admissions criteria - shows how a social engineering program using policy instruments to affect the highest echelons of American society presumed a strong and activist U.S. State, often underestimated by members of the polity, a strength exercised in part through less familiar organs of state power such as presidential executive orders and bureaucratic regulation. Combined, these specific aspects of the development and content of affirmative action policy in the United States demonstrate the acuity of taking seriously the political importance of policy instruments as determinants of state-society relations in modern democracies.

Finally, the use of quotas nicely illustrates how policy instruments can have a complex mixture of intentional and un-intentional effects. The intended aim of quotas is to de-hierarchise American society and to abrogate the historical injustices associated with the treatment of African Americans and other minority groups in the century between the end of the Civil War and enactment of the Civil Rights Act in 1964. This goal has been achieved in significant ways – illustrated by the growth of a black middle class, increased percentage of African Americans working in professions and being educated at elite universities – though inequalities and injustices continue (APSA 2004, Hochschild 1995). Un-intentionally the strategy of employing the quantifiable policy instruments of quotas has forged new divisions resting in part in the very categories – race or ethnicity for instance – which have historically been mobilized to divide Americans internally. It is this latter un-intended but fiercely contested consequence of a quantification method of policy instrument which confronts other nations embarking on similar affirmative action initiatives (such as France). The source of this effect lies in the intrinsic character of employing quantifiable policy instruments in public policy.
V. References


Intellectual Obsolescence and Intellectual Makeovers: Reflections on The Tools of Government After Two Decades

Christopher Hood
I. Intellectual Obsolescence?

The anthropologist Mary Douglas (1986: 69) has said that textbooks tend to go out of date every decade or so, not only because of ‘new work in science or the deeper delving of historians,’ but also and perhaps more importantly because the books no longer fit the linguistic fashions and political susceptibilities of a new age. ‘In the intervening years, some slogans have become risible, some words have become empty, and others too full… Some names count for more and others that count for less are due to be struck out.’

If Douglas is correct, my book The Tools of Government (Hood 1983) must be doubly due for such a makeover, because it was first written in the very different conditions of more than two decades ago. It is undeniable that most of its once up-to-date examples are as quaintly dated today as midnight sailings and steam trains. The frontiers of political correctness have greatly altered too, and so have many public policy preoccupations (to take only a few examples, paedophilia, cloning, climate change and obesity have come from virtually nowhere into central issues of policy and media concern over that period). The language of policy analysis and political science has changed over the past twenty years as well, for instance with the advent of the many new forms of ‘adjectival institutionalism’ and the associated boom in studies of ‘governance’ and ‘New Public Management’. Moreover, many basic parts of the political landscape that had once been thought to be permanent fixtures – such as the division of Europe into communist east and capitalist west or the various national currencies of Western Europe before the euro – have been swept away.

How Douglas’s 10-year rule plays out over more than two decades, however, may not be quite so clear. Ideas can come back into fashion as well as going out. And older forms of analysis can stand the test of time, particularly if they are not specific to any particular technology or ideology of governance. Any account of the specific information-technology tools that were available to government a quarter of a century or so ago could today only be a quaint and perhaps ironic period piece, evoking a vanished age before today’s world of the internet, personal computers and mobile phones. But the very rapidity with which technology has changed since that time, as well as the other changes referred to above, has only served to accentuate the importance of looking at the variety and variability of government’s policy instruments in ways that are both relatively institution-free (at least in the narrow sense of ‘institution’) and not rooted in any particular machine technology. Accordingly, this paper briefly reviews the basic approach I set out two decades ago and considers what if any relevance it has today, in the light of new circumstances and other analytic approaches.

II. The Basic Approach: Ambition and Constraint

In one sense, there is nothing new about attempts to analyze the instruments used by governments for public policy. After all, debating alternative possible ways of keeping public order, enforcing laws or collecting revenue is a classical concern of political thought. In the Enlightenment era, discussion of effective instruments of policy was a central concern of European ‘police science’, from the early policy science literature of the 1530s (see Maier 1980: 105) to later works such as Nicolas Delamare’s 1713 (orig 1705) Traité de la Police, which saw street lighting, open spaces with maximum exposure to public view, surveillance, records and publication of information as key tools of crime prevention (see also Foucault 1977; Scott 1998; Lascoumes and Le Galès 2004: 17-20). The concern to identify and explore alternative tools of policy was also a central theme of the Scottish Enlightenment and of Jeremy Bentham’s voluminous works on government, penal and welfare policy, for instance in Bentham’s inno-
In the twentieth century, work on government policy instruments took two main forms. One was policy-domain-specific analysis, as in Erwin Ackerman’s (1948) argument (later much qualified by Baldwin 1999) that in their attempts to combat contagious disease in the nineteenth century, authoritarian states in Europe tended to employ ‘quarantine’ instruments, while more liberal states employed ‘sanitarian’ ones. The other was the attempt to explore policy tools across all the domains of government, as in the use by economists of ‘policy instruments’ as a generic term to denote differences between price systems and command systems and the like. In the 1950s, Robert Dahl and Charles Lindblom (1953) developed this approach in a pioneering exploration of the politico-economic instruments used by modern states, though their emphasis was largely on economic policy.

To the extent that there was anything distinctive and original about late twentieth century attempts to analyze government policy instruments, it arguably lay in the attempt to produce parsimonious and comprehensive or generic classifications that allowed comparisons across time, area and policy domain. Such an approach appeared to offer the prospect of greater analytic tractability than earlier typologies of public policy ‘in the round’ (as in the well-known works of Salisbury 1968; Lowi 1972; Wilson 1980). The aim was to contribute to the analysis of policy implementation, a lively field of research in political science in the 1970s that later lost momentum, and perhaps was partly subsumed in other approaches such as the public management movement of the 1980s and 1990s. In the case of The Tools of Government, the analysis began with a cybernetically-based categorization of policy instruments into those that are used for gathering information and those that are used for modification of behaviour (two basic components of any control system) and then identified four basic social resources that are normally available to governments for gathering information from its citizens and modifying their behaviour. Those resources were termed ‘nodality’, ‘authority’, ‘treasure’ and ‘organization’. Nodality denotes the capacity of government to operate as a node in information networks – a central point of contact. Authority denotes government’s legal power and other sources of legitimacy. ‘Treasure’ denotes its assets or fungible resources, and organization denotes its capacity for direct action, for instance through armies, police or bureaucracy.

These analytic categories overlap at the margin (for instance information collection often serves to modify behaviour) and complex hybrids can be difficult to disentangle in practice. Moreover, although intended as a generic framework for comparison of government policy instrumentalities across time, space and policy domain, this analysis was severely limited in various ways, and many of those limitations were deliberate. First, it deliberately analyzed government instruments in an institution-free and technology-free way, and indeed treated government in rather the same way that pre-World War II economists had treated the theory of the firm, as a single undifferentiated actor. That approach was not taken because of lack of awareness of institutional variety within government but was rather an application of the classic (and arguably still valid) Marshallian principle that analysis can only progress if we do not allow too many elements to vary at once.

Second and relatedly, the analysis looked only at the point at which ‘government’ (in all its various institutional forms) came into touch with citizens at large. It deliberately excluded all the intermediate activities, and associated instruments, that form the ‘production function’ of much public policy-making within government. Undeniably, too, instruments and tools are needed to control government itself, as in Philippe Bezes’ paper in this issue) analysis of control of the French public bureaucracy, and indeed that sort of control often draws on the four basic elements of nodality, authority, treasure and organization. But for reasons of ana-
lytic tractability the original analysis looked only at the government-citizen interface and not at control within government (for a partial extension of the approach to the latter domain see Hood et al 1999).

Third, the analysis was deliberately restricted to only two of the standard analytic components of any control system. In standard cybernetic analysis, a system of control by definition needs to comprise three basic elements or components: a means for setting a standard or target (the so-called ‘director,’ in the language of cybernetics), a means for observing the state of some system relative to whatever target has been set (the ‘detector,’ in cybernetic terms) and a means for bringing the state of that system in line with – or at least closer to - the target if the system swings off limits (the ‘effector’) (see for example Beer 1966; Dunsire 1978). And simple though it sounds, tracing this trio of control activities can often be remarkably hard to do in practice, because the three elements often span institutional boundaries, both within government and between government and other organizations. Though sometimes institutionally combined, those activities are often accidentally or deliberately separated, and they frequently comprise informal as well as formal activity. Indeed the formal privatisation of some government activities and intergovernmental developments, notably in the European Union, have often had the effect of separating those activities further, for example in the regulation of risk and hazard (see Hood, Rothstein and Baldwin 2001). And the delicate architecture of political blame-avoidance (Weaver 1986) often involves deliberate institutional separation of effecting and detecting activity.

The original analysis dealt only with the information-gathering and behaviour-modifying activity that government undertakes at the point where it meets citizens at large, and did not deal with standards or targets except in so far as they are instruments of ‘authority’ designed to affect behaviour. The reason for that limitation was that the original analysis was focused exclusively on the government-society interface, whereas standards and targets come from both inside and outside government. But as this collection of papers shows (particularly that by Olivier Borraz), standard-setting is an important component of government activity that was wholly left out of the analysis and that involves a wide variety of much-discussed and often politically disputed types such as point standards and tradeoffs, or precautionary and evidence-based approaches. Of course, a complete account of any control regime requires identification and description of the mechanisms that operate all three of these fundamental control activities.

To the extent that the basic approach had some value, it might have been expected that the subsequent two decades would have seen an extension of the analysis to overcome those originally self-imposed limitations – that is, to explore policy instruments across different institutions and technologies, to explore policy instruments used for control within government as well as between government and citizens, and to extend the analysis to include standard-setting as well as information-gathering and behaviour modification. To some extent each of those sorts of analytic extension has indeed taken place, as the next two sections will attempt to show. For instance Olivier Borraz in this collection has developed the analysis of government standard-setting, building on established French distinctions between la norme, le standard and l’étalon. But as the next two sections will also show, many subsequent analyses have been preoccupied with pursuing different kinds of questions, or with answering the original question in a different kind of way.
III. Intellectual Makeovers: Subsequent and Competing Approaches

In the twenty years-plus since *The Tools of Government* was first written, analysts of public policy have paid a good deal of attention to ‘policy instruments’ in one way or another, as the other papers in this collection show (see also Lascoumes and Le Galès introduction). Much of that work has focused on policy instruments within particular policy domains, such as the management of hazards, crime or public health, and in that sense developed earlier traditions of policy-domain-specific analysis, as mentioned earlier. Some of it lay on the borderline of domain-specific and government-wide activity, as in the case of Desmond King’s study of affirmative action in this collection, or Alain Desrosières’ (1998) seminal work on the development of statistical conventions. But there was also analytical and political interest in government-wide policy instruments. And that is no wonder, because reforms in public policy and government itself over those two decades have focused heavily on systemic changes in the mix of instruments used to provide public services.

Such debates were fuelled in large part by ideology, particularly as various ‘new right’ advocates of the 1980s rediscovered older recipes for delivering public services through indirect means that mimicked the market, such as educational vouchers or other forms of contracting and outsourcing (Savas 1982). But the debates were also fuelled by changes in technology that helped to make new ways of doing government’s work possible, such as the cameras or chips linked to computers that can transform a whole range of government activity, from the tagging of prisoners to new forms of collecting road-tolls. Such developments fuelled various millenarian visions of completely new ways of providing public services and organizing government in the information age (see, for instance, Frissen 1996), and the promise of transformed e-methods of public service delivery became a staple, indeed a cliche, of reform statements such as the 1993 Clinton-Gore National Performance Review document in the US (Gore 1993) or the 1999 *Modernizing Government* white paper in the UK. Of course, there was also a more critical strain of analysis fuelled by alarm at the development of instruments for a ‘surveillance society’ of government and corporate actors able to link together information gleaned from cameras, computers and related information devices, to track the movements of every individual to within a square metre (see for instance Rule 1976; Brin 1998).

But a third element - interests - was also in play in this era of renewed ideological and academic concern with government instrumentalities, because as many parts of government work came to be contracted out or outsourced, large corporate and other interests were increasingly at stake in the choice of government ‘tools’. Just as the military-industrial complexes that grew up in the nineteenth century moved governments away from the direct production of ships, guns and war materiel in government establishments ( arsenals and state dockyards) toward production by contract, so the information-industrial complexes of the twentieth century have provoked similar moves in many kinds of administrative and information-processing operations, even over such apparently state-centric matters as criminal records, escort of prisoners and the collection of taxes in some countries. Nineteenth-century Marxists thought that the development of industrial capitalism meant that the ownership of the means of production progressively moved out of the hands of workers, as personally-owned (and often personally made) hand tools or machinery gave way to ever-more complex and capital-intensive methods of production. And in the later twentieth century something like that has happened to many of the traditional instruments of government, particularly the information-handling tools that since Max Weber’s day have often been seen as defining features of traditional bureaucracy – its files, its records, its devices for information collection and case-handling. Whether such a development is unprecedented is debatable – after all, up to the nineteenth century, tax-farming and mercenary armies were commonplace in what is often seen as ‘core’ government
activity. But such changes have certainly been dramatic, and that combination of ideology, technology and interest makes it scarcely surprising that policy ‘instruments’ have had high political salience over recent decades.

Analytic styles and preoccupations have changed in policy analysis and political science over the past two decades too, in several ways. There were various reactions against what were claimed to be the crudities of the earlier analytic approaches, with corresponding moves to complicate and refine the older agenda, challenging or relaxing earlier assumptions, raising different questions and using the idea of tools and instruments in different ways. Some of this work aimed to move beyond the largely classificatory style of studies in the Dahl and Lindblom (1953) style, and sought to use ‘tools’ as part of an explanatory scheme in political science, using a physics-type language of causal analysis. Some of it, on the contrary, sought to move away from what was said to have been an excessively positivist style in the policy analysis of the previous generation, and focused instead on ‘frames’ and argumentation (Schön and Rein 1994), often rejecting what were thought to be the over-simple means-ends distinctions of an earlier era. Some of it was concerned to put technological or institutional factors into the centre of the stage. No single schema could fully capture the variety of all this work on policy instruments over the past two decades, but much of it has fallen into three broad categories. One of them could be loosely called the institutions-as-tools approach, including forms of organization as policy instruments. Another could be loosely termed the politics-of-instrumentality approach, which problematizes the political and cognitive processes that lead to the choice of instruments, instead of taking those processes as given. And a third strain comprises various other forms of describing or categorizing government’s tools in a generic way, of which one of the best-known and perhaps most influential is the ‘carrots sticks and sermons’ approach, to be briefly discussed below.

The institutions-as-tools approach overlaps in numerous ways with the approach taken in the *Tools of Government*, but where it differs is that it includes specific forms of organization as policy instruments as well as (or instead of) generic modes of collecting information and shaping behaviour. Viewed from an institutions-as-tools perspective, the various forms of organization available for delivering public services – including government departments, public trading corporations, private contractors and the multitudinous forms of third-sector bodies – represent a range of available instruments for providing public services or government policy. That approach has a long history, going back to nineteenth-century debates about ‘subsidiarity,’ mid-twentieth-century debates about public corporations, the world of disavowable institutions in war and foreign policy (see Mackenzie 2002) and the related ‘quango’ debate of the 1970s that was sparked off by work from the Carnegie Corporation of New York after Alan Pifer (1967) famously coined the term ‘quasi-non-governmental organization.’ The institutions-as-tools approach raises many fundamental questions and lends itself to numerous kinds of analysis, including blame-avoidance analysis (Weaver 1986; Hood 2002) or the transaction-costs approach used by Murray Horn (1995) to explain why legislatures choose to use courts or bureaucratic agents for their purposes, and why they choose one form of bureaucratic agent (state enterprise, independent regulator or core government department) rather than another. The institutional-form-as-instruments approach contrasts with all of those deliberately institution-free approaches to the analysis of policy instruments that for analytic simplicity consider government as an undifferentiated entity.

Perhaps the leading exemplar of the institutional-form-as-instruments approach is the distinguished US policy analyst Lester Salamon (2002), in an edited book that is also titled *The Tools of Government* (a development of an original written more than a decade before (Salamon and Lund 1989), of which the main title was Beyond Privatization.) It is a broad-ranging
and synthetic approach, with important contributions by many distinguished and authoritative scholars. Salamon argues that policy ‘tools’ can be understood in many different dimensions (the three dimensions he singles out for particular attention are ‘directness,’ visibility, coerciveness and automaticity) and presents the thrust of the ‘tools’ approach to public policy as part of a ‘new governance’ paradigm that is linked up with the rise of ‘New Public Management’ and related approaches over the past few decades.

It is undeniable that there are many different dimensions in which government instrumentalities or tools can be classified and understood, and Salamon (2002: 7) convincingly argues that many of the ‘New Public Management’ advocates of alternative ways of delivering public policy present ‘a caricature of current government operations that overlooks the extent to which such instruments have already been adopted.’ But that sort of synthesis is not necessarily cost-free. The issue of how much value to place on analytic parsimony versus comprehensive coverage is ultimately an aesthetic one, but three other analytic issues are raised as well. One is the question of whether generic policy tools (such as money and information) should be run together with types of organization (such as corporations or courts) or whether those two items should be kept separate. The case for keeping those two dimensions separate is that the form or type of an institution and the instruments it uses to achieve its purposes are to a large extent logically and empirically separable. For instance, the long history of ‘unacknowledgable means’ and quasi-non-government organizations from World War II special operations (Mackenzie 2002) to the numerous NGOs and corporations used by and against Al Qaeda in the 1990s (Final Report of the National Commission on Terrorist Attacks on the United States, undated: 47-70), shows that apparently commercial and independent forms of organization are frequently used for political and military activities of the kind often associated with the core institutions of the state. The (standard Marshallian) argument for separating those two dimensions is that if you want to explore the range of alternative legal and institutional forms of action available to government, you need a form of classification that is neutral as to the other kinds of instrument each of those legal or institutional forms might use. Contrariwise, if you want to explore the range of those other kinds of instrument, you need a form of classification that is institution-free.

Second, the four-fold dimensional classification (‘directness,’ visibility, coerciveness and automaticity), while suggestive and broad-ranging, is based on a set of lists that do not have the demonstrable analytic completeness of a 2-by-2 table or categories drawn from some foundational theory, such as grid and group in cultural analysis or the categories of general control theory. Nor is it even clear whether those categories are distinctive to government policy as opposed to that followed by any kind of organization. Third, while Salamon links analysis of tools with the growth of what he calls ‘new governance’ (that is, a move away from stand-alone public bureaucracies to network structures), it is far from self-evident that a focus on tools or instruments does necessarily link with any one particular approach to public policy and government (Lascoumes and Le Galès introduction of the special issue). Indeed, it might be argued that the value of identifying government’s basic instruments is precisely that it can help us to explore different governance paradigms across time and space. Though Salamon (2002: 2) says that ‘earlier government activity was largely restricted to the direct delivery of goods and services by government,’ the tools-and-instruments approach can be used in broader historical perspective to point out that many forms of ‘earlier’ government activity operated through ‘treasure’ (such as the very traditional instrument of using bounties or subsidies for many purposes, including criminal justice (see Posner 1986: 559-60), ‘authority’ (such as the licensing of markets in towns, the creation of official weights and measures or the issuance of letters of marque for privateers in military combat) and ‘nodality’ (as in traditional disaster relief operations). Indeed, one of the potentially fruitful applications of a
The institutions-as-instruments approach and the generic policy instruments approach certainly overlap to some degree, but it is doubtful whether they should be considered as true rivals. They are probably better seen as complementary forms of analysis, different golf clubs in the policy analyst’s set. But the fact that the term ‘tools’ is used for both phenomena suggests that we need a more precise language – or at least more adjectives (Collier and Levitsky 1997) – to describe government tools and instruments. Pierre Lascoumes and Patrick Le Galès (this collection) offer a possible basis for such a more precise language is offered, by distinguishing ‘instruments’, ‘techniques’ and ‘tools’ as methods of control at different levels of specificity. And, in a perhaps novel twist to the institutions-and-institutions approach, they define the topmost levels (not the lower levels) as ‘institutions,’ not in the sense conventionally used by political scientists, but in the sort of sociological sense that Desrosières’ statistical conventions can be considered as ‘institutions’ (see also Douglas 1986: 91-109). And that raises interesting questions about what the relationship is between political institutions and the methods they use to gather information and change behaviour.

A second broad stream of work on generic policy instruments, certainly overlapping with that just discussed, can be termed the politics-of-instrumentality approach. This approach, exemplified by the work of Stephen Linder and Guy Peters (1989; 1992; 1998), puts the emphasis on the subjective perceptions and political processes that surround the choice of policy instruments – that is, the way policy-makers and politicians conceive policy instruments, and the ideological or political considerations that lead them to prefer some instruments to others. Linder and Peters suggest that earlier generic policy tools literature of the type represented by the Tools of Government implied an assumption that government’s public policy tools were to be taken as ‘independent variables’ in analysis, having a causal effect on other phenomena. That reading is contestable, insofar as much of the thrust of earlier approaches to categorization might be interpreted as an attempt to contribute to ‘how-type’ analysis of public policy rather than to the much trickier problems of ‘why-type’ analysis (see Fischer 1971), but it was used to justify a reversal of such an assumed conventional causal focus, taking policy instruments as the dependent rather than independent variable. That took the analysis onto more familiar political-science territory, to focus on the ways that ideology and politics shape the choice and perception of instruments.

In developing their analysis, Linder and Peters (1992) distinguish four approaches to the understanding of policy instruments, including what they call ‘instrumentalists’ (those who seek to apply, extend and often champion particular favoured tools, such as those economists who see price systems as the answer to every conceivable policy problem), ‘proceduralists’ (those who see tool selection as the product of political processes that are so complex and unique to every case that it is impossible to make any general assessments of ‘appropriateness’), ‘contingentists’ (a somewhat clumsy term used to denote those who see the appropriateness of tool use as depending on types of task, for instance as between ‘compliance cultures’ and cultures of resistance to government policy) and ‘constitutivists’ (those who see the appropriateness of tool use as turning on subjective and contested meanings).

Like Lascoumes and Le Galès’ approach, this analysis has some overtones of Douglas’ (1986) account of how institutions think, though it is also not based on any explicit cultural theory. Linder and Peters (1998: 45) say that their own thinking about policy instruments has developed over time away from approaches such as contingency or instrumentalism towards what they call ‘constitutivism,’ arguing that there is ‘a growing understanding that instrument selection is not a simple mechanical exercise of matching well-defined problems and equally
well-defined solutions. Rather, it is fundamentally an intellectual process of constituting a reality and then attempting to work within it.’ But what they call constitutivism seems to differ from what they call proceduralism in that some generalization is possible. In that sense constitutivism appears to connote some cultural theory of instrument selection, in the sense that particular beliefs and worldviews will predictably cohere with a preference for particular tools and instruments of policy, though that implicit cultural theory has not been drawn out.

Again, this approach does not really amount to a rebuttal of earlier classifications of government instrumentalities. Rather, it involves the pursuit of a different set of questions, though those questions are undoubtedly interesting and important. The politics of instrument choice was deliberately left out of The Tools of Government on Marshallian ceteris-paribus grounds, although the book readily acknowledged (p. 9 and 137-7) that the choice of policy instruments is rarely a matter of neutral deliberation in practice and is typically heavily constrained by politics, ideology and culture. It suggested that every age tends to be dominated by a received view or ideology of what counts as the proper instruments for government to use for its purposes.

Indeed, as already noted, the choice of policy instruments and forms of organization ironically often turns out to be far more ideological and politically contested than statements about the basic purpose of government. Certainly that applied to the era of late-twentieth-century ‘economic rationalism’ and the so-called New Public Management that developed from the 1980s. Of course the big-picture political and distributional questions – military action versus pacifism or neutrality, redistribution versus acceptance of inequality, free trade versus protection, state welfare versus individual provision, state support of business versus laissez faire – are still important even and perhaps especially in the post-Cold War era. But the methods used to deliver public services themselves became an issue of faith and evangelism, with something approximating to deification of information technology and contract provision as the basis of salvation.

Accordingly, a relatively neutral approach to cataloguing and classifying public policy instruments does not preclude the ‘constitutivist’ politics-of-instrument choice approach, and indeed it might be argued that some variant of the first is a necessary condition for effectively pursuing the second. The two processes are analytically complementary, because all the touchy-feely aspects of ‘ideology’, ‘politics’ and ‘culture’ that the ‘constitutivists’ and ‘proceduralists’ want to highlight can only be clearly drawn out when the tools that are favoured or perceived by participants in the policy process can be systematically compared with others that could have been chosen or perceived by those with different ideological or other baggage. And to establish the latter (a counter-factual) a purely inductive approach based on actors’ reported views of the world cannot be sufficient. Some analytically-based categorization of instruments is needed to play against those actor perceptions.

IV. Intellectual Competitors: Other Generic Ways of Categorizing The Tools of Government

If the institutions-as-instruments approach and the politics-of-instrumentality approach are answers to questions that are rather different from those tackled by the attempt to categorize policy tools generically, the last two decades has seen the development of several alternative ways of categorizing government policy instruments in a generic way. One, developed by Richard Elmore (1987), conceived government instruments as variants on a fourfold division of basic intervention strategies, comprising mandates, inducements, capacity-building and system-changing. Anne Schneider and Helen Ingram (1990) have elaborated and modified
this approach, stretching it into a fivefold categorization that comprises authority tools, incentive tools, capacity tools, symbolic or hortatory tools and learning tools. To that can be added various kinds of classification of approaches to control, including my own (Hood 1998) adaptation of grid-group cultural theory to explore systems of control that work through oversight, competition, mutuality and forms of randomness.

While these approaches certainly overlap, their differences may be in part be seen as a reflection of different analytic purposes. For example the grid-group cultural-theory analysis of control types is applicable to any kind of institution, not just government, and to any activity subject to control, not just encounters between government and citizens. The Elmore categorization has a purposive dimension that is missing in The Tools of Government, and the Schneider/Ingram categorization also adds at least one other dimension by having a separate category for ‘symbolic’ tools, while from another perspective, symbolism or ‘realism’ is treated as another dimension, potentially going across the whole gamut of government tools as conventionally conceived, including spending, expressions of authority and military force (see also Salamon 2002).

However, not all of the differences between The Tools of Government and other categorizations of policy instruments can be understood as a function of slightly different kinds of questions being asked. The categorization that most obviously tracks in the same field is the ‘carrots, sticks and sermons’ categorization developed by Evert Vedung (Bertelmans-Videc, Rist and Vedung 1998), on the basis of a well-known trichotomy of types of organizational control originally developed by the famous organizational sociologist Amitai Etzioni (1964) over thirty years before. As an approach to the categorization of generic policy tools, there are several things to be said for the carrots-sticks-sermons trichotomy, not the least of which is parsimony. After all, if all else is equal, scientists conventionally prefer simpler explanations, representations and analytic approaches to more complex ones, following the well-known principle of ‘Occam’s razor’ (the maxim, entia non sunt multiplicanda praeter per necessitatem, coined by a medieval English monk).

However, the carrots, sticks and sermons categorization is itself limited in at least three ways. First, that trichotomy only covers ‘effecting’ tools – that is, instruments for modifying behaviour or enforcement of policy or rules. Like The Tools of Government, it does not deal with ‘directing’ tools – ways of setting policy or standards, of the kind dealt with by Olivier Borraz in this collection – but unlike that analysis, it also does not deal explicitly with detecting or information-gathering tools. Second, while the ‘carrots, sticks, sermons’ trichotomy has an intuitive appeal, its analytic foundations as a way of categorizing public policy instruments may be questioned in at least two ways. On the one hand the scheme reflects its origins in Etzioni’s generic sociology in that it potentially applies to the activities of any organization rather than to government with its particular legal and other features. And on the other hand, it is not clear what kind of foundational theory of control underlies the trichotomy.

Third, there are some basic aspects of control and surveillance, both in government and indeed in other fields of activity, that are not easily classified under the headings of ‘carrots, sticks and sermons.’ One notable example is the sort of instrumentality that involves the physical structuring of environments so as to shape behaviour, such as street lighting, speed bumps or the sort of software architecture that does not accept anything outside a pre-set range of responses. Such physical shaping goes back to the eighteenth-century themes discussed earlier and is familiar in devices that are designed to make some forms of violation impossible, or at least costly, such as fencing to shape crowd behaviour, for example at sporting events or in pedestrian safety measures on the roads. This set of activities – sometimes called ‘architecture’ (following the analysis of Lawrence Lessig (2000) in his famous analysis.
of cyberspace codes) but ‘organization’ in the schema of The Tools of Government - is rather hard to force into the ‘carrots, sticks and sermons’ trichotomy. Accordingly, it is not clear that the Occam’s razor criterion should lead us to prefer a trichotomy to a quatrochomy in this case, since the ‘praeter per necessitatem’ requirement is not clearly met.

V. Conclusion

All of the three main approaches reviewed here – the institutions-as-tools approach, the politics-of-instrumentality approach and the generic policy tools approach – need to be developed further. Lascoumes’ and Le Galès’ (this collection) analysis offers a way of developing each of them, by treating instruments as ‘institutions’ in a broad sociological sense, by tracing the ways in which instruments acquire a life of their own, and linking forms of instruments to different kinds of state.

Moreover, each of those approaches are purportedly technology-free. But the advent of ‘information age’ technology (ICT, including cameras, computers and communication networks) presents analytic challenges to all of them, which have yet to be fully met. In the case of the institutions-as-tools approach, questions posed by such changes include the issue of how changing technology can affect the transaction costs of alternative institutional arrangements, for instance by making spot markets possible for an increasing number of ‘public service’ products such as electricity in a way that did not apply in the pre-computer age (see Foster 1992: 73). In the case of the politics-of-instrumentality approach, questions posed by such changes include the issue of how far the political fixation with ‘digitizing government’ in so many developed countries is to be understood as welfare-maximizing policy entrepreneurship, as a utopian ideology comparable to those found in previous eras of technology (Dunlop and Kling 1991), or as a reflection of a now entrenched and international ‘information-industrial complex’ heavily programmed to produce solutions in search of problems.

For the generic policy tools approach, changing technology raises questions about changes in the form and relative costs of different varieties of policy instruments in the ‘information age’. While the basic social building-blocks of those tools (whether they be conceived as carrots sticks and sermons, nodality-authority-treasure-organization, or something else) may be timeless in a sense, their specific form and relative importance may well be shaped in important ways by changing technology. One of the most important developments in public policy over the past two decades has been the growth of a subfield concerned with analysing information technology in government. While much of this work does not connect directly with the various ‘instruments’ literatures discussed here, there are numerous important exceptions, one of which is Helen Margetts’ (1999) analysis of developments in information technology in government from a ‘tools’ perspective. Margetts plausibly argues that ICT not only represents a new field for the application of the generic policy tools approach, but that it has significantly reshaped each of the four main detecting and effecting tools identified in The Tools of Government and produced some important detector-effector hybrids. Indeed, the development of contemporary information technology may partially modify some of the older analysis about what amounts to ‘using bureaucracy sparingly.’ Although the analysis of the ‘depletability’ of government instruments (that is, which instruments draw on resources that are used up as they are used against being self-renewing) arguably still stands, the cost of customizing some kinds of instruments, particularly for information dissemination and for some kinds of monitoring, has been greatly reduced by modern information technology, even if that does not apply for many kinds of ‘effecting’ activity. We need more systematic analysis of such developments, and an equally systematic analysis needs to be applied to the other ‘in-
Instruments’ approaches discussed above, since that is clearly one of the ways that the policy instruments field can be developed in the future.

However, it can be argued neither the generic policy tools approach in general nor the specific underlying analysis of *The Tools of Government* has become seriously outdated, in spite of the pressures identified by Mary Douglas that were noted at the outset. There are at least three reasons for making such a claim. First, while it is certainly true that the academic study of government and public policy moved in part into some sort of ‘post-instrumentalist’ phase over the past two decades, as represented by the politics-of-instrumentality approach, that concern with cognitive frames, rhetoric and argumentation makes the generic policy tools approach if anything more, not less necessary, than before. That is because any such analysis requires close attention to why some particular method of dealing with citizens comes to be seen or argued to be the ‘one best way’ and which possible alternatives are ‘framed out’. Not only are the two approaches not mutually exclusive, but the generic policy tools approach is a necessary condition for the politics-of-instrumentality approach, because to make the latter kind of analysis work convincingly, it has to possible to lay out a range of alternative tools for the provision of services and delivery of policy as if they could be selected by some dispassionate analytic process.

Second, the generic policy tools approach is more robust than it may appear at first sight, in that the differences among the various approaches that were briefly discussed in the previous section can be exaggerated in a way that obscures large areas of common ground. For instance, almost every major generic classification of government instruments distinguishes in some way between the use of information, incentives, rules and ‘architecture’ (in the sense of physical structuring of the environment) at either the first or second level of categorization. That is not to deny that there remain differences among the various generic policy tools approaches, as shown earlier, but as Salamon (2002) argues, many of those differences are explicable by the different analytic purposes and institutional contexts that different approaches reflect. As was shown earlier, the array of policy tools looks different if we are concerned only with information-gathering and behaviour-modification between citizens and government than if we are concerned with the orchestration of action among different levels of government and different institutional forms. It may also look different if we take a ‘change-agent’ perspective than if we take a ‘system’ perspective.

Not all of the differences among different generic policy tools approaches can be explained in this way, but some of them can be, and to the extent that the different approaches reflect different purposes, they are ways of doing different kinds of analysis, rather than different ways of doing the same kind of analysis. So, far from having lost its way in some sort of stalemate of different rival categorizations and approaches that prevents any kind of ‘normal science’ development, the tools approach in public policy may be better understood as having developed different categorizations for different purposes. What we need are better ways of understanding those different purposes, and a better way of linking the policy tools approach to the concerns of the public management literature, which as noted earlier has to some extent subsumed the more instrumental approaches to policy implementation of two decades ago.

Third, and perhaps immodestly, it can be claimed that the particular variety of generic policy tools approach represented by *The Tools of Government* remains useful as a method of comparison and analysis, in spite of the dramatic developments that have taken place in the policy world since it first appeared, as noted at the outset. While the writing style is now clearly outdated for eminently Douglasian reasons and some of the original examples used to present the argument are, as already noted, as obsolete as steam cars, seaplanes or transatlantic liners, the basic analytic framework continues to be drawn on by scholars (as in the case of Lascoumes
and Le Galès in this collection) and is not obviously inferior to any of the other approaches discussed above. Of course, dramatic changes in the technology of administration, both in prospect and retrospect, mean that new manifestations of government instruments merit close attention. Clearly an age of cameras linked to computers produces new forms of detection in public policy, and website-based government is very different from one that nails posters onto trees. But we need to have a way of assessing current developments in administrative technologies with those of other eras, such as development of telephones, cars, radios and fingerprinting in police work in the early part of the twentieth century, or of exact methods of measurement on excise tax-collection in the eighteenth century. And if the analysis of the changes such developments bring is to amount to anything more than a breathless tour d’horizon of the latest technological gizmos in public policy (much though governments themselves have a liking for that sort of approach), it needs to be related to some foundational analysis that is in some way technology-free and rooted in the nature of government as a social and legal phenomenon.

Some of the changes that have occurred in the two decades considered in this paper might be put down to ‘Douglasian’ features of changing styles of debate. But those changes have not all run in the same direction. They include, as seen above, the introduction of a more explicitly causal language into the analysis of tools (going from a largely classificatory approach to one that used the causal language of independent, dependent and intermediate variables). But they also include the often-discussed shift away from the positivist style of much policy studies a generation ago to one that put more emphasis on framing and argument. What the status of such changes will be another decade or so out is hard to predict, though it would be surprising if further Douglasian shifts had not occurred. Ironically perhaps, the move from overall policy typologies to the analysis of policy tools and instruments has by no means removed the frustrations about complexity and tractability that was part of its original appeal two decades and more ago. But the analysis of policy instruments itself is evidently no short-lived fashion, it is as central an issue in public management and public policy today as it was two decades ago, and Lascoumes and Le Galès (2004: 20) are right to argue that ‘l’instrumentation est au centre de la gouvernementalité’.
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