

The Power of Experts in EU Environmental Policy Formulation:

The EU Emission Trading Review and Auctioning of Emission Permits
from an Epistemic Communities Approach

Abstract

The aim of this study is to examine the role of knowledge societies, so called epistemic communities, in the problem-defining and initial decision-making stages of the EU policymaking process leading to a Proposal for amendment of Directive 2003/87/EC establishing the European Emission Trading System (EU ETS). Specifically in the decision to drastically increase the amount of allowances auctioned for the third phase of the EU ETS. It also includes a discussion on the implications of the findings for the notion of the EU suffering from a democratic deficit.

The study attempts to uncover the possible influence an epistemic community on the 3rd meeting during the EU ETS Review in the spring/summer of 2007, argued to have laid the foundation for The Commission's proposal.

Findings imply that influence was exerted by an epistemic community on The Commission by framing the issue and providing viable solutions in an atmosphere of uncertainty, and that the influence of epistemic communities can be seen as detrimental for the EU as a democratic organization from what is labelled as traditional democratic values. However, several problems with the theory are identified and cast a doubt on the findings, including epistemic communities' ability of coordinated action.

Key words: Epistemic Communities, EU ETS Review, auctioning of allowances, democratic deficit.

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Table of Contents

1. Introduction	3
1.1 Disposition	4
1.2 Purpose of the study and problem formulation.....	4
1.3 Hypothesis	5
1.4 Introduction on expert influence on a democratic organization: epistemic communities and the EU's democratic deficit	5
1.5 Methods and material used	6
2. Epistemic Communities and EU Environmental policymaking	7
2.1 Defining Epistemic Communities.....	8
2.2 Scientific Politics?	8
2.3 Technical Criteria	9
2.4 Epistemic communities influence on the EU policy process	9
2.5 The Second Face of power, methodological pluralism	10
3. Background, from Kyoto to Brussels, the creation of a free-market instrument to cope with Greenhouse Gas emissions.	12
3.1 The first phase, lack of experience gives rise to several problems; uncertainty arises as the ETS is heavily criticized.....	13
3.2 Phase II, improvements are made, but problems persist	15
3.3 Phase III, EU ETS reformed in The Commissions amendment proposal	15
4. Analytical focal points and concept-clarifications	16
4.1 Grandfathering, Benchmarking and Auctioning.....	16
4.2 The Commission.....	16
4.3 The EU ETS review	17
5. The revision of the allocation process, from grandfathering to auctioning	19
5.1 Relevant actors involved	19
5.2 The industry's position and argumentation	20
5.3 A coalition for auctioning	21
5.4 Framing the issue.....	24
5.5 Final proposal for a directive amending Directive 2003/87/EC	24
6. The influence of epistemic communities, was it real?	25
7. Epistemic communities in a democratic EU	27
References	28
Annex 1: Survey results (Ecofys)	333

1. Introduction

The European Emission Trading Scheme (ETS) started its operation the 1st of January 2005; it is the culmination of a process which began in 1992 with the signing of the United Nations Framework Convention on Climate Change (UNFCCC)¹. From initial resistance concerning the idea of emission trading at Kyoto, to finally accepting it in the final days of negotiations², the ETS has been, and remains a matter of controversy for the EU. The apparent failure of the ETS in the period between 2005 and 2007 sparked even more debate and required a series of significant changes to the system. One of the most significant, and dramatic changes following the 2007 ETS review, which was proposed by The Commission, was the decision to increase the amount of emission permits auctioned, rather than handed out for free, from 5-10% in the first and second phase to 60% and later 100% in the period following it. Why the sudden change in a matter which is fundamental for the ETS? It is clear that in the formulation of the ETS, The Commission has been aided by a large quantity of outside sources, the Emission Trading Directive (2003/87/EC) was a product of a “conscious collective effort of The Commission to co-operate with stakeholders”³ and the discussions they had with over 60 industry associations and companies as well as governments and Non-Governmental Organizations (NGOs).

The Epistemic Communities approach for policy analysis garnered some attention in the 90’s, particularly when the magazine International Organization published an issue entirely dedicated to presenting what was then a new and interesting theory⁴. It explores the role of groups of experts in the agenda-setting and problem-definition stages of policy processes⁵. The theory has not reached the level of popularity its main proponent Peter M. Haas probably envisioned. However, it remains an interesting approach for sub-systemic⁶ analysis of policy creation and formulation.

The ETS review, and its dramatic consequences, spanning four meetings which according to The Commission staff laid the ground for what would later become their proposal for a revision of the original ET Directive⁷, presents us with an opportunity to employ the epistemic community theory. While other more established theoretical approaches such as Neofunctionalism, Moravcsik’s Intergovernmentalism or Institutionalist perspectives remain some of the more dominant theories in European studies, I believe that the epistemic community

¹ Pew Center: “The European Union Emission Scheme, Insights and opportunities”, p 2.

² Damro, C & Mendez, P L in Jordan et al: “Environmental Policy in the European Union”, 2005, p 253-270. Skjærseth, J B & Wettestad, J: “The Origin, Evolution and Consequences of the EU Emission Trading System”, 2008, p 2.

³ Damro, C & Mendez, P L in Jordan et al: “Environmental Policy in the European Union”, 2005, p 256.

⁴ International Organization, Vol. 46: “Knowledge, Power, and International Policy”.

⁵ Haas, P M: Introduction: “Epistemic Communities and International Policy Coordination”, 1992.

⁶ Peterson, John: “Decision-making in the European Union: Towards a framework for analysis”, p 71.

⁷ Commission Staff Working Document, Impact Assessment SEC (2008) 52, p 8.

theory will allow me to investigate a specific process in less abstract terms and hopefully acquire a deeper understanding of the daily occurrences of the EU.

1.1 Disposition

The following section outlines the purpose of the study as well as provides the overarching problem-formulation and questions to be answered throughout the study. A tentative hypothesis is presented and I shortly discuss the relevance of the chosen subject and case for Political Science and European studies. Methods to be used and the chosen material which I find to be appropriate for the investigation follows. After that, a detailed explanation of the theoretical framework followed by a thorough historical recounting of events leading up to the moment under closest scrutiny is made. Analytical focal points and relevant concepts are clarified before the final two chapters which discuss the findings and implications of it.

1.2 Purpose of the study and problem formulation

The purpose of this study is to investigate the role that knowledge communities, or epistemic communities which are groups of experts within any given issue-area sharing a certain set of characteristics might have had in the formulation of the proposal to amend the EU Emission Trading Directive for the period after the second phase sent to The Council and European Parliament for scrutiny 23 January 2008, following a review of the EU ETS trial period between 2005-2007. Specifically, their role in the decision to drastically increase the amount of allowances auctioned. The main question for this study is: Was there a group of experts, an epistemic community, whether internal, external or both which framed the issue of auctioning allowances and set the context for possible decisions by providing information in favour of auctioning in the ETS Review framework? To answer this overarching question I pose the following inquiries to guide my work, and a question for discussion as well:

- Were there groups of experts fulfilling the existential criteria for epistemic communities (explained below) present at the ETS Review?
- Who were these groups, what types of organizations and associations either represented their interests and brought them forward or were de facto part of the epistemic communities?
- If proven to exist, does a link exist between the epistemic communities and relevant decision-makers in the process?
- If there were in fact epistemic communities at work, did they actually influence the final proposal?
- If they were active, how did they frame the issue?
- What would the influence of non-elected experts on the EU policy process imply for a democratic organization such as the EU?

1.3 Hypothesis

The hypothesis with which I'll be working is that the uncertainty which prevails in issues as complicated as policy instruments aimed at combating global warming, coupled with the uncertainty policy-makers stood before after the failed trial period of the EU ETS and the structural crisis that followed made it possible for epistemic communities to heavily influence the shape of the amendment proposal.

1.4 Introduction on expert influence on a democratic organization: epistemic communities and the EU's democratic deficit

Why is this worth knowing? Why is the impact of groups of experts on the European policymaking process of relevance to political science? The European Union is a unique entity in International Relations; a sui generis union of states, unprecedented and unmatched in history⁸. The policymaking process in the EU is very complex, with many differences between one process and the next "*the same EU institutions and national policy-makers operate in different ways depending on the policy*"⁹. As Bomberg & Stubb put it, the only defining characteristic that EU processes really have in common is that they strive to achieve a certain degree of consensus in a majority of cases¹⁰.

The EU is not a traditional system of government, but of governance, needless to say it's a complicated system of governance in which it can be very difficult to elucidate who governs and who makes the decisions. Questions of legitimacy arise, and the notion of there existing a democratic deficit, meaning that "*the EU lacks sufficient democratic control*"¹¹ and that those making the decisions in the EU are not accountable to a satisfying degree, is one of anti-EU groups main arguments. The issue of democratic deficit is neatly summarized by Laffan et al as the "*result of the Union's institutional design, decision rules, the dominance of delegated expert knowledge, a weakness of accountability, hostile public opinion in some member states, and the absence of a political community in the Union*"¹². The fear of experts having too much influence on the policymaking process conflicts with the basic principle of popular sovereignty in democratic states. The experts are not elected by the people, nor are they accountable to it.

This study, which investigates the role of epistemic communities in a particular policy process, is relevant to the discussion of the EU's democratic deficit because it aims to uncover and explicate the power of non-elected groups

⁸ For another point of view see Jenson, J: "Is Europe still Sui Generis?", 2003

⁹ Bomberg, E & Stubb, A: "The European Union: How Does it Work?", 2003, p 137.

¹⁰ Ibid, p 137.

¹¹ Ibid, p 157.

¹² Laffan et al: "Europe's Experimental Union", 2000, p 202.

and individuals in an organization which prides itself in being a bastion of democracy. Just like lobbyist groups, advocacy coalitions and a myriad of less known intra-EU institutions are targets for analysis, so are epistemic communities.

1.5 Methods and material used

The main method of analysis employed in this study will consist of reading and analyzing primary and secondary official documents of the process at hand. Fortunately, the EU ETS Review is a fairly well-documented event for which extensive and comprehensive readings can be found. For the explanation of the theoretical approach, mostly articles published in International Organization and other varied sources will be used which outline the theoretical assumptions and methodological considerations. Previous theory-testing studies conducted with the same theory will serve as reference points and provide the know-how needed for my own study. As will be further explained, the focus will be on The Commission and the surrounding actors involved in the ETS Review which took place during 2007, literature on The Commission is not hard to come by and a wealth of authors is at my disposal, on the ETS Review official EU documents (COMs), reports and reviews will provide the basic information needed to map relevant actors and their contributions. To provide context for comparative analysis, and illustrate the uncertainty of involved decision-makers, I will provide a thorough examination of the history behind the ETS as well as its more current state. It should be said however, that comparative analysis is only used in a relatively small extent. As many of the theory's basic arguments rely on the fact that a state of uncertainty and/or crisis is at hand, the historical presentation primarily serves as an indication of that. The study is conducted mainly as a theory consuming study as an existing theory is used to explain a specific case, but it involves some theory testing elements¹³ as well, which I hope to discuss further in the final sections.

¹³ Esaiasson et al: "Metodpraktikan: Konsten att studera samhälle, individ och marknad", 2004, p 33-36.

2. Epistemic Communities and EU Environmental policymaking

Refusing categorization, the European Union with its sophisticated, complex multi-level governance system coupled with unprecedented levels of interdependence and cooperation in international policy-making has given rise to, together with older and more established IR theories, an upheaval of explanatory theoretical approaches and perspectives attempting to simplify and explain the occurrences within the EU. The most dominant ones being Liberal Intergovernmentalism, Neofunctionalism, Policy Network analysis, Neoinstitutionalism and Social Constructivism¹⁴. The EU sets policy in many areas and the process by which they are made and implemented is so varied and complicated that none of the theories mentioned above, though plausible for specific issues, covers all areas and is capable of creating a complete understanding of the EU and EU policy making.

The epistemic community approach, which investigates the role of knowledge-societies¹⁵ in the policy process, has no such ambition to create a general IR theory, as stated by Peter M. Haas¹⁶ in International Organization.

It's set apart from agency centred approaches and radical constructivists by defining itself as a limited constructivist view, arguing that while knowledge is a social construction, consensus about the nature of an independent material reality is possible in the long run¹⁷. The purpose is to create a complementing theory useful for specific issues under certain conditions such as the uncertainty perceived by EU actors in the face of technical and complicated matters as climate change and/or crisis's following a dramatic event where expert knowledge and information is needed before policy is formulated.

The recent financial crisis serves as a good example to illustrate the kind of situation where the theory might be useful.

In times of uncertainty and crisis, epistemic communities can elucidate *"...cause and effect relationships and provide advice about the likely results of various courses of action"*¹⁸. In an issue-area such as environmental policy-making, confusion and crisis is an everyday problem, in the EU, where policy has to be formulated in accordance with member states with different ambitions, agendas and possibilities, the complicated nature of environmental policy-making and international cooperation the problems is further exacerbated.

¹⁴ Bomberg, E & Stubb, A: "The European Union: How Does it Work?", 2003, p 10.

Wiener, A & Diez, T: "European Integration Theory", 2004, p 45-155.

¹⁵ Sundström, M: "A Brief Introduction: What is an Epistemic Community?", 2000, p 2.

¹⁶ Haas, P M: Introduction: "Epistemic Communities and International Policy Coordination", 1992, p 3.

¹⁷ Ibid, p 24.

¹⁸ Ibid, p 16.

2.1 Defining Epistemic Communities

This brings about the question of what an epistemic community actually is. Why are they legitimate “*councillors*” to decision-makers? What makes them relevant for political analysis? The short definition, offered by the pioneer in epistemic community theory Peter M. Haas states that they are “*a network of professionals with recognized expertise and competence in a particular domain or area and an authoritative claim to policy-relevant knowledge within that domain or issue-area.*”¹⁹ The argument is that growing complexity and technical uncertainties regarding many issues on the international agenda forces decision-makers to seek the aid of perceived and accepted experts sharing a set of characteristics (see section 2.3) providing knowledge about for instance the acceptable level of CO2 emissions to prevent global warming. As the demand for information in the policy-making process grows, so does the influence of epistemic communities. Relative to the EU, they would be groups of experts sharing a worldview, causal beliefs, and notions of validity with a common policy enterprise consulted by relevant actors like The Commission, The Parliament, and The Council amongst others while formulating policy and policy-instruments such as the one chosen for analysis.

2.2 Scientific Politics?

Perhaps giving the impression of proposing a view on international policy-making reminiscent of “*scientific politics*” à la Comte, I should reiterate that epistemic community theory is only applicable in specific cases when there is a certain amount of uncertainty present. Further, decision-makers will, depending on which school of thought is employed, choose either credible knowledge perceived as objective or whatever knowledge they can use to further their own political ends.

The choice, and use, of knowledge remains a highly political matter, depending in a thoroughly institutionalized and open system as the EU amongst other things on lobbying and path dependency²⁰. If decision makers are unfamiliar with an issue, the chances of an epistemic community to influence rise, however, if the decision makers are familiar with the issue it is probable that they choose to “*call on an epistemic community whose ideas ‘implicitly align’ with their own pre-existing political agenda and will help them further it*”²¹. Ideas which are in line with mainstream thought are more likely to be accepted than those distant to it, it goes without saying that “*expensive*” ideas, in every sense of the word, will encounter resistance. Lastly, the supposed experts do not need to be natural scientists, or any kind of scientist for that matter, it suffices with

¹⁹ Ibid, p 4.

²⁰ Stone Sweet, A, Sandholtz, W & Fligstein, N: “The Institutionalization of Europe”, 2001, p 18.

²¹ Haas, P M: “Conclusion: Epistemic Communities, World Order, and the Creation of a Reflective Research Program”, 1992, 381.

them being perceived by the decision-makers as a sufficiently competent individual or group in a particular area²².

2.3 Technical Criteria

On a more technical note, Haas sets four distinct characteristics to identify an epistemic community, they have: “1) *a shared set of normative and principled beliefs, which provide a value-based rationale for the social action of community members*; 2) *shared causal beliefs, which are derived from their analysis of practices leading or contributing to a central set of problems in their domain and which then serve as the basis for elucidating the multiple linkages between possible policy action and desired outcomes*; 3) *shared notions of validity-that is, intersubjective, internally defined criteria for weighing and validating knowledge in the domain of their expertise*; and 4) *a common policy enterprise- that is, a set of common practices associated with a set of problems to which their professional competence is directed, presumably out of the conviction that human welfare will be enhanced as a consequence.*”²³.

2.4 Epistemic communities influence on the EU policy process

Indispensable for epistemic communities is to create some sort of link between themselves and decision-makers²⁴, further, for anyone employing the epistemic community approach the identification of these links is fundamental for establishing causality. The extent to which epistemic communities consolidate bureaucratic power and occupy niches in advisory and regulatory bodies will determine their influence on the policy-making process²⁵. These individuals and groups become the “*baggage handlers as well as the gatekeepers governing the entry of new ideas into institutions*”²⁶. The quite broad definition of who can be part of epistemic communities can result in a coalition including members from think tanks, NGO’s, GPRB’s²⁷ and key actors within and outside EU institutions concerned with environmental policy, capable of exerting “*...considerable amounts of political influence by including a wide range of policy actors*”²⁸.

However, the ways in which epistemic communities may be influential is not always as evident as the analyst might hope, many times, the influence is

²² Haas, P M: Introduction: “Epistemic Communities and International Policy Coordination”, 1992, p 17.

²³ Ibid, p 4 & Sundström, M: “A Brief Introduction: What is an Epistemic Community?”, 2000, p 5.

²⁴ Sundström, M: “A Brief Introduction: What is an Epistemic Community?”, 2000, p 7.

²⁵ Haas, P M: Introduction: “Epistemic Communities and International Policy Coordination”, 1992, p 5 & 31 & Sundström, M: “A Brief Introduction: What is an Epistemic Community?”, 2000, p 7.

²⁶ Haas, P M: Introduction: “Epistemic Communities and International Policy Coordination”, 1992, p 27.

²⁷ Governmental Policy Research Bodies

²⁸ Gough, C & Shackley, S: “The Respectable Politics of Climate Change: the Epistemic Communities and NGOs”, 2001, p 331.

indirect, meaning that the epistemic communities don't pressure or influence decision-makers directly. It is rather exerted through other actors close to the decision makers, such as lobbyist groups, NGO's and so on. The question of who is actually responsible for a particular decision taken by decision-makers when for example NGO's have had a determinant role in the process arises. Was it the NGO, or was it the epistemic community which provided the information used by the NGO in their argumentation and pressuring? In a case such as this, the influence should be attributed to epistemic communities only if the information provided by them was the determinant factor behind the success of the NGO's argumentation, and without which the decision-makers would have chosen another course of action. Problems abound, as the determinant factor behind success may be of several kinds, at the same time. Decision-makers personal beliefs, political climate, financial issues or even negotiators ability and charisma are all plausible and possible explanations. The issue of causality is left unresolved by Haas; a discussion on the matter will be presented.

2.5 The Second Face of power, methodological pluralism

The notion of power employed by the Epistemic Community approach follows *"the second face of power"* discussed by Colin Hay in *"Political Analysis: A Critical Reflection"*, which was first presented as a critique of the pluralistic notion of power, with Robert A. Dahl as poster boy, by Peter Bachrach and Morton S. Baratz²⁹ in 1962. According to them, *"power is exerted in setting the agenda for the decision-making process"*³⁰. From this point of view, epistemic communities will influence EU decision-makers by setting standards and framing issues as well as providing the possible alternatives at hand for rational actors in and around institutions. They narrow the range and possible feasible outcomes of negotiations. The framing of ideas, and the intellectual innovations derived from them can take many forms, in the EU, which is relatively open for external influence, individuals, groups and institutions compete to make their voices heard. Vital for an understanding of which ideas, and which epistemic community, won in any specific issue and exerted influence, is a proper identification of the so called baggage handlers.

The Epistemic Community approach is methodologically pluralistic; it borrows concepts from a wide range of theories including Rational Choice, Neoinstitutionalism and Liberal Institutionalism. Positioning itself in the middle of the agency/structure debate, adopting a *"structurationist"* view *"...which contends that just as structures are constituted by the practice and self-understanding of agents, so the influence and interests of agents are constituted by political and cultural structures"*³¹. As such, the importance of institutions in

²⁹ Bachrach, P & Baratz, M. S: "Two Faces of Power", 1962.

³⁰ Hay, C: "Political Analysis: A Critical Introduction" 2002, p 174.

³¹ Haas, P M: "Conclusion: Epistemic Communities, World Order, and the Creation of a Reflective Research Program", 1992, p 372.

international and European policy-making is highlighted, bringing with it the concept of path dependency, meaning that when changes are made to the structure and are stabilized through time, they will not be easily reversed³². However, in the long term, agents are not helpless victims of structural determinism, it's a two way street where both "*sides*" shape and define the other. Rational actors, and their rationality, are determined by structures determined by rational actors. Accordingly, again in the long term, policymaking in the EU during times of uncertainty will not only be the result of determining factors from agency/structure, but from both in interplay in a process of socialization where the agents affected by the institutionalized views of an epistemic community acquire a defining role as their interpretations are made part of the established structure. In the short term, epistemic community's views will affect policy processes and become institutionalized through "*the political insinuation of their members into the policymaking process and through their ability to acquire regulatory and policymaking responsibility*"³³. What the above means for a short term analysis such as my own, is that whatever views are presented by an epistemic community into the policymaking process are bound to become altered by the agents involved before they are accepted and institutionalized.

³² Stone Sweet, A, Sandholtz, W & Fligstein, N: "The Institutionalization of Europe", 2001, p 18.

³³ Haas, P M: "Conclusion: Epistemic Communities, World Order, and the Creation of a Reflective Research Program", 1992, p 374.

3. Background, from Kyoto to Brussels, the creation of a free-market instrument to cope with Greenhouse Gas emissions.

The EU Emission Trading System represents one of the most ambitious projects of the European Union since its creation. It has been called a “*grand policy experiment*”³⁴, it is the first international emission trading scheme operating at scale the present scale and it is considered to be the cornerstone of the EU’s measures to fight climate change³⁵. The basic purpose of the ETS is to force EU member states to comply with the emission targets set in the Kyoto Protocol. This is done by expensive for companies to emit, not through taxes but using a market based solution. Member states set an emission cap for their companies through National Allocation Plans (NAPs) which determine the amount of emission allowances given, or auctioned, to companies, the cap set must be in line with member state’s Kyoto targets. The NAPs are then submitted for approval to The Commission which can modify them if deemed necessary. The end result should be that a scarcity of allowances is created for a trading period. The allowances, which are below what the total amount of companies in the EU would want to emit, are then bought and sold on a market where supply and demand sets the price. The companies that are able to reduce their emissions at a low cost will do so to avoid paying for extra allowances, other might cut their emissions to be able to sell their allowances to those willing to pay for them. The companies that don’t cut their emissions will have to pay for allowances as well as lose the opportunity of profiting from the trade. That is, if the ETS works as it is intended to.

However, the establishment of this “*flagship measure*” has been a troublesome story, surrounded by controversy, and it has been widely criticized. The idea of an emission trading scheme was first presented by the representatives of the US government and Environmental Protection Agency (EPA), pursuing the free-market environmentalism introduced in the Climate Action Report of 1995³⁶, at the Kyoto summit based on their positive experience with a similar system in the acid rain program. It reflected their confidence in market based solutions and it was seen as a flexible and cost-effective way of dealing with the issue of climate change without imposing taxes on the business community believed to distort the global market. The US later came to reject the very idea of an ETS under the presidency of George W. Bush. The EU on the other hand, who had initially resisted the idea of an ETS in favour of the centralized regulatory instruments or common and coordinated policies and measures³⁷ (CCPMs) specified in COM(97) 481 final, later accepted the proposed ETS in Kyoto, and began work on establishing an EU ETS almost immediately after the

³⁴ Kruger, J & Pizer, W. A.: “The EU Emissions Trading Directive: Opportunities and Potential Pitfalls”, 2004, p 1.

³⁵ EU Commission: Questions & Answers on Emissions Trading and National Allocation Plans

³⁶ Damro, C & Mendez, P L in Jordan et al: “Environmental Policy in the European Union”, 2005, p 257.

³⁷ Ibid, p 261.

Kyoto protocol was signed following the so-called coordination method³⁸. Jon Birger Skjærseth and Jørgen Wettestad consider the change of personnel in The Commission as essential for the development of the EU ETS in their article *“The Origin, Evolution and Consequences of the EU Emissions Trading System”* (2008) and explained more in depth in their book *“EU Emission Trading: Initiation, Decision-making and Implementation”* (2008). The entrance of Jos Delbeke and his team into the climate change unit of DG Environment meant economists who were open to the idea of emissions trading had taken over from the *“command and control”* staff previously occupying their positions. The role of The Commission in formulating and implementing the EU ETS is nothing short of essential, as Skjærseth & Wettestad point out; The Commission was *the* driving force behind the ETS, providing the initiative and building up the necessary knowledge³⁹. Eventually leading to a Green Paper on greenhouse gas emission trading in 2000 as well as the establishment of a working group within the European Climate Change Programme (ECCP), and later to the creation of the Emission Trading Directive COM(2001) 581 submitted for approval following a co-decision procedure involving The European Parliament and The Council under the rule of Qualified Majority Voting (QMV). The Directive was accepted by the Council in 2003, and January 1 2005 the EU ETS began operating.

3.1 The first phase, lack of experience gives rise to several problems; uncertainty arises as the ETS is heavily criticized.

The first period of trading, here and elsewhere called Phase I of the EU ETS, which covered the period between 2005 and 2008, was meant as a trial period, a way of learning through experience how the ETS would function, before the first commitment period of the Kyoto Protocol was to come into force beginning 2008.

There were many problems with the ETS in phase I, the lack of experience was obvious. Mainly three criticisms were aimed at the EU ETS and focused on the following issues: 1) Windfall Profits; 2) Over Allocation; and 3) The Allocation Process.

The issue of windfall profits refers to how *“power supply bids ‘improperly’ included the market value of freely allocated allowances”*⁴⁰ thus raising the wholesale price of electricity. However, this critique is at least in part, incorrect. It wasn’t the expected market price that was included, it was the opportunity cost *“Whether an electricity generator in a competitive market has received the allowances for free or not, the relevant consideration in making offers to sell electricity is the opportunity cost of using the allowance to cover emissions. Since*

³⁸ Stubb, A & Wallace, H & Peterson, J in Bomberg, E & Stubb, A: *“The European Union: How Does it Work?”*, 2003, p 143.

³⁹ Skjærseth, J B & Wettestad, J: *“The Origin, Evolution and Consequences of the EU Emission Trading System”*, 2008, p 8.

⁴⁰ Pew Center: *“The European Union’s Emission Trading System in Perspective”*, 2008, p 24

every allowance used to cover emissions means the loss of the opportunity to sell that allowance, an opportunity cost is incurred and that cost is the foregone market price for allowances."⁴¹. The end result was that power suppliers turned a huge profit at the expense of consumers due to the characteristics of the EU ETS. One of the proposed solutions for the issue of windfall profits is auctioning of permits.

The problem of over allocation strikes at the core of the ETS as it basically renders the whole system useless. The problem was that the NAPs created by each member state were far too generous when allocating allowances.

Several reasons are to blame; obviously industry pressure is a factor, the basic idea of setting the cap beneath business-as-usual (BAU) levels proved more difficult than anticipated in the short time frame that was given, not to mention the fact that several countries, particularly the then newly integrated eastern countries, were undergoing structural transformations making the whole matter even more difficult⁴². The end result was of course that the scarcity needed for the allowances to become a valuable and therefore tradable asset was lacking, instead there was an abundance of allowances leading to a dramatic fall in their market value from 30 euro all the way down to less than a single euro⁴³, making the trading scheme redundant.

The final issue, related to both the previous ones, involves the allocation process per se, meaning how the permits were allocated by member states. According to the EU emissions trading Directive⁴⁴, at least 95% of allowances in the first phase must be allocated for free, leaving 5% which *can* be allocated differently. In the second phase, a minimum of 90% must be allocated for free, increasing the optional part to 10%. It should be noted that only four member states chose to auction some of the allowances, with Denmark being the only one using the entire 5%. The free allocation of allowances, or grandfathering as it is called, was widely criticized by those that would have preferred benchmarking or auctioning.

To summarize, by and large, the failure of the EU ETS in the trial period can be attributed to the decentralized nature of the system and lack of bureaucratic manpower and knowledge in the Commission. The response, as we shall see soon, has been to centralize vital aspects of the system, further placing them under the scrutiny of the Commission which has acquired an even more important role as watchdog than they had before.

⁴¹ Ibid, p 30.

⁴² Ibid, p 32.

⁴³ Skjærseth, J. B & Wettestad, J: Implementing EU emissions trading: success or failure?, 2008, p 276.

⁴⁴ Directive 2003/87/EC

3.2 Phase II, improvements are made, but problems persist

For the second period, currently in operation and spanning the period 2008-2012, some of the problems which were present in the first phase have been rectified. Mainly, the issue of over-allocation has been addressed. For the second period, The Commission, having listened to the criticisms from the trial period and decided to impose much harder demands on the NAPs⁴⁵. To illustrate this point we see that out of 27 NAPs handed in to The Commission, only one (UK) was unconditionally accepted, all the other were cut, some significantly so⁴⁶. Relative to 2005 emission rates, the final EU cap was 6% lower while the unmodified NAPs had actually been several percents higher than the 2005 rate, meaning 25-30% reductions for some member states. However, though it remains too early to observe if the windfall profits will continue and the matter of the allocation process remains almost the same with only a 5% increase in allowances auctioned.

The main point of interest here is that The Commission has chosen to expand their power by allowing themselves to interfere more in the NAPs, effectively centralizing the system.

3.3 Phase III, EU ETS reformed in The Commissions amendment proposal

For the third phase, several changes were made in the proposal for amendment of the ET Directive, including the setting of an EU wide cap and the inclusion of more industries into the ETS. However, most salient was the decision to increase the amount of allowances allocated by auctioning from 10% in the second phase to 60 % in 2013 only to increase to full auctioning during phase III operation⁴⁷. More on this matter will be explained in the later sections.

⁴⁵ Skjærseth, J. B & Wettestad, J: Implementing EU emissions trading: success or failure?, 2008, p 279-280.

⁴⁶ Poland 27% for instance.

⁴⁷ EU Commission: "Questions & Answers on Emissions Trading and National Allocation Plans", p 5.

4. Analytical focal points and concept-clarifications

The following section provides some basic information needed for understanding the forthcoming analysis. As well as clarifying the issue regarding the allocation process I explain why the analysis has given The Commission such an important role in the process and why the EU ETS Review constitutes the moment in time and space appropriate for analysis.

4.1 Grandfathering, Benchmarking and Auctioning

When deciding the method of allocation for the ETS, normally three options prevail as the most likely to be used. The first, grandfathering, is the method that has been used predominantly so far in the EU ETS. When allowances are grandfathered, they are handed out by governments free, to industry entities based on their historic production and emission. This method was used by the US in their acid rain program and the positive experience they had with it laid the base for the Kyoto proposal on emission trading⁴⁸, which, as previously mentioned was influential for the EU ETS. The second type of allocation is benchmarking, as the name implies *“installations would receive allowances according to some ‘benchmark’ emission rate times an indicator of the installation’s level of economic activity, typically either output or an input such as energy consumption.”*⁴⁹. The allowances would still be free, but instead of historic measures, a *“best case scenario”* would be used to determine the amount of allowances allocated. Lastly, auctioning obviously means that permits, or allowances, are auctioned to interested parties. Governments provide NAPs for approval, if they are approved they then auction out the allowances to their industry.

4.2 The Commission

Out of the major EU institutions, The Commission is definitely one of the more, if not the, most influential in the day to day handlings of the EU. Some call it a hybrid of sorts *“somewhere between an executive and a bureaucracy”* without national counterparts⁵⁰ with many tasks to fulfil as set out in the Treaties. According to Skjærseth & Wettestad, the Commission played a key role in the development of the EU ETS, their entrepreneurial leadership⁵¹ as they took the initiative for the instrument, and their active campaigning for it, is what

⁴⁸ Damro, C & Mendez, P L in Jordan et al: “Environmental Policy in the European Union”, 2005, p 257.
Eizenstat, S. E: “Combating Global Warming”, 1998.

⁴⁹ Pew Center: “The European Union’s Emission Trading System in Perspective”, 2008, p 36

⁵⁰ Bomberg, E & Cram, L & Martin, D in Bomberg, E & Stubb, A: “The European Union: How Does it Work?”, 2003, p 44.

⁵¹ Skjærseth, J B & Wettestad, J: “The Origin, Evolution and Consequences of the EU Emission Trading System”, 2008, p 8.

has made the ETS possible. There is little doubt from these authors that the policy would not have been accepted, or at least not as fast, had The Commission not taken it to heart *“The European Commission itself played a key role in transforming the vague idea of an international emissions trading system to a proposal for the EU ETS. In essence, the European Commission took the initiative, built up knowledge based on external expertise, and crafted support among stakeholders”*⁵². Despite the many roles The Commission can play in the EUs handlings, for this study it is The Commissions power to initiate policy which is of interest. As previously stated, the target material is the proposition presented by The Commission, not a decision taken by The Council and Parliament. The policy originated from The Commission, and the re-evaluation of it took part in the framework of The Commissions duties, the moment in time of interest is therefore the preparation stage of the policy, where experts and knowledge communities are most likely to have an impact over relevant institutions⁵³ rather than the decision-making or implementation stage. Branded by Peterson and Bomberg as the *“sub-systemic”* level⁵⁴. My analysis then, of the influence of epistemic communities over the final proposition formulated by the commission will focus on The Commission as it is the most appropriate target and due to its important role in the process. Particularly the Environment Directorate-General, the administrative department under the responsibility of the commissioner in charge of the environmental issues is of interest in this matter as *“While the college are ultimately responsible for any decision which emanate from this institution, in practice many idea are generated much further down within the administrative structures.”*⁵⁵.

4.3 The EU ETS review

The need for a review of the ETS was first presented in the 2006 report to European Parliament and The Council on the functioning of the trading system thus far, which also identified the main issues of concern to be taken up in the review⁵⁶. The ETS Review was a series of meetings with stakeholders and interested parties held in 2007 in the framework of the ECCP Working Group on Emission Trading where a large amount of participants were given the opportunity to come together and discuss potential changes to the trading system. The input provided by the participants, primarily in the 3rd meeting which focused on allocation methods, provided a valuable source of information for the proposals made⁵⁷. The review constitutes the context where the decisions, if we are to believe The Commission’s statements on the importance

⁵² Skjærseth, J B & Wettestad, J: *“The Origin, Evolution and Consequences of the EU Emission Trading System”*, 2008, p 8.

⁵³ Zito, A. R: *“Epistemic communities, European Union Governance and the Public Voice”*, 2001, p 470.

⁵⁴ Peterson, J & Bomberg, E: *“Decision-Making in the European Union”*, 1999.

⁵⁵ Bomberg, E & Cram, L & Martin, D in Bomberg, E & Stubb, A: *“The European Union: How Does it Work?”*, 2003, p 48.

⁵⁶ COM(2006)676 final

⁵⁷ COM(2008)16 final, p 3.

of the information provided, included in the proposal were either taken or outlined. Overall, following EU policy-making practices through the coordination method, the review laid the foundation for the proposal, and whatever decisions were taken after it can be traced back to it.

5. The revision of the allocation process, from grandfathering to auctioning

As required by article 30 in the original ET Directive and in line with the review reference terms set out in COM(2006)676 final *“Report pursuant to Article 30 of Directive 2003/87/EC”*, The Commission put the EU ETS so far under review during four meetings with stakeholders in the spring and summer of 2007. The outcomes of this review were presented January 23 2008 in The Commission’s proposals for amendment to Directive 2003/87/EC *“...so as to improve and extend the greenhouse gas emission allowance trading system”*⁵⁸. Many changes were proposed, but the one of concern for this study is the decision to, as I’ve already mentioned before, raise the amount of allowances auctioned to an estimated mandatory 60% starting phase III in 2013 (full auctioning is permitted but not mandatory at that point) which will later escalate to full mandatory auctioning before 2020.

5.1 Relevant actors involved

During the third of the four meetings the ECCP Working Group carried out in the spring of 2007 or more precisely 21-22 of May, named *“Further harmonization and increased predictability”*, issues surrounding the allocation process were brought to fore. Stakeholders, interested parties and institutions participated in discussions on the future methods of allocation to be used; several speakers with different points of view were given the opportunity to argue for their case. The results of this meeting and the conclusions taken on the basis of it are present in the amendment proposal and have already been superficially introduced. For the sake of the study, it is of vital importance to delve deeper into what happened and clarify who was there. Who said what? Who was listening? Who were the participants of the meeting? What arguments were brought forward? Which reports were given attention? And later, who provided the information on which the parties involved based their arguments?

At the meeting, all member states were present, several of them made contributions to the debate through their speakers, notably, Italy, Germany, The Netherlands, Ireland, Belgium and Denmark. Other than that, the attendants of the meeting were dominated by industry figures, individuals, company representatives and Industry associations. Several members of different Directorate-Generals were present, obviously a majority of them were from DG Environment including ETS front figure Jos Delbeke. 28 speakers took the word to address the issues at hand. Out of the total 28 speakers a slight majority were representatives of the European industry, either companies per se or organizations speaking in the place of a union of industries. On the other hand, Academia, think tanks and NGOs together managed to claim the second spot on

⁵⁸ Ibid, Title.

amount of speakers, and together with the speakers of member states, they were a majority. The categorization may seem odd at this point, why did I mash together these groups? Though confusing at first glance, we shall soon see that these two groups constitute the two sides of the debate on whether to auction or not. Coming to this meeting, The Commission's position was open to any side with a slight inclination towards the idea of auctioning⁵⁹.

5.2 The industry's position and argumentation

Coming to the review, industry leaders knew they would have a tough time to maintain their preferred position, which was, in a few words: Status Quo, or at the very least, not more auctioning. According to a survey conducted by McKinsey & Company, and later presented in collaboration with independent research group Ecofys and DG Environment in August 2006, when asked for their opinion regarding the possibility of an expanded use of auctioning of allowances a resounding no was the response from the companies that took part in the survey to the question: *"Should the EU Directive allow for more auctioning beyond 2021?"*⁶⁰. As is evident from the survey, the preferred method of allocation for companies and industry leaders is grandfathering based on historical emission rates, but given the trial periods failure and critique levelled at the allocation process the tides seemed to have changed to benefit the benchmarking alternative. Out of all the industry speakers, none except a few gas industry representatives advocated auctioning. The most common and strong arguments against auctioning were:

- Carbon leakage is highly probable, meaning that due to increased emission costs carbon-emitting production is likely to move to other regions with more lax regulations. The problem is two-fold: 1) global emissions do not decrease, they simply move from one place to another; and 2) European companies are not able to compete on fair terms with companies outside the EU.
- Only feasible in global context. Following up on carbon leakage, several speakers insisted that allowance auctioning would harm the European Market. If auctioning is to be implemented it should be so in a world-wide emission trading system, otherwise it produces an unfair disadvantage for European companies.
- Likely to deter investment in EU industry.
- Auction revenues present a problem, where does the money go? Who ends up benefitting at the cost of EU companies?
- Removes funding from R&D which produces innovative solutions for climate change as well as allows EU companies to stay competitive.
- Discriminates new entrants

⁵⁹ (COM(2006)676 final, p 8.

⁶⁰ See Annex 1.

- “Do we really want a system where lowering production is equally legitimate as efficiency improvements?”⁶¹

Source: Final Report of the 3rd meeting of the ECCP working group on the review of the EU ETS & presentations of industry representatives.

The arguments against auctioning were many and one of the few points which united the industry representatives around a cause. They all preferred benchmarking in favour of auctioning, some insisted on grandfathering though they seemed to realize it was a lost cause⁶², but benchmarking was a feasible alternative for all of them because:

- It provides more incentives for developing clean technology and technological advancements through the lure of profit from selling allowances.
- Benchmark based allowance caps ensures constant development and emission reductions, if the benchmark is the best possible performance with current technology it guarantees a constant progression. From the ETS’s perspective, it’s efficient.
- Experience shows that it works, no actual reference is made to such experiences though.
- Transparent and easy to overlook, its simplistic design relative to benchmarking would make it easier to combine with other emission trading system (a basic ambition of the ECCP is to attempt to work together with other regions in a unified ETS) from other countries.

Source: Final Report of the 3rd meeting of the ECCP working group on the review of the EU ETS & presentations of industry representatives.

5.3 A coalition for auctioning

On the other side of the debate stood Academic groups, NGOs, think tanks and independent research organs, seemingly in unison over the issue of auctioning adopting features of Sabatier’s definition of advocacy coalitions but not fully fulfilling the criteria to constitute one⁶³. Besides purely external groups and individuals such as the WWF, CAN and Point Carbon, one research institution in particular was in a favoured position relative to The Commission and may have acted as the so-called baggage handlers, namely Ecofys.

⁶¹ Presentation by Annette Loske IFIEC Europe: “Improving Allocation Performance Based Allocation and Activity Rate: What is the Choice?”, Slide 9.

⁶² Presentation by Marco Mensink CEPI: “Some views on improving allocation of the EU pulp and paper industry”, p 7.

⁶³ Sabatier, Paul (1988): “An advocacy coalition framework of policy change and the role of policy-oriented learning therein”

The argument of whether or not to auction allowances has been described as a battle between “*business*” and economists⁶⁴; it is clear from the alliances shown at this meeting that the description was more than accurate. The arguments presented from this side centred on the following:

- Benchmarking is just another label for grandfathering, more or less the same thing only with a more complicated and expensive implementation procedure. Same problems would persist.
- Auctioning can reduce the cost for EU tax payers, instead charging the ones actually responsible for the emissions, And in so doing following the “*polluter pays*” principle.
- Transparent system with few complicated elements which can be overcome.
- Allows for greater harmonization of rules throughout the EU, same applies to all rather than individual rules for individual companies.
- Would prevent windfall profits (in the sense that companies in the power sector would not be charging for “*ghost-costs*” but actual costs), power prices would not decrease.
- “*...if future allowances are allocated as a function of present emission levels, firms have an incentive to emit more now in order to extract a larger allocation in the future.*”⁶⁵.
- Revenues from auctions can be used for a variety of purposes, including developing “*clean*” technology.

Source: Final Report of the 3rd meeting of the ECCP working group on the review of the EU ETS & Presentations by Academia, think tanks, NGOs & GPRBs.

While the speakers of the industry used arguments in their presentation based on internal investigations almost exclusively, with differing causal explanations as to the issue at hand, speakers from this side based most of their arguments on research conducted either by professional research institutions, or on internal investigation backed by a large amount of empirical evidence. Particularly noticeable was the level of professionalism of the ENGO’s, validating and legitimizing their role as policy-makers partners and councillors. The groups and member states in favour of increased auctioning became a loosely tied epistemic coalition⁶⁶ concerned with the promotion of an idea. A problem perceived by them as an essential part of the well functioning of the EU ETS, namely the issue of whether to expand the use of allocation auctioning or not. Backing this epistemic coalition was a vast amount of scientists, experts and authoritative figures stemming from a wide variety of organizations, associations

⁶⁴ Climate Policy: “Auctioning of EU ETS phase II allowances: how and why?”, 2006, abstract.

⁶⁵ Climate Policy: “Auctioning of EU ETS phase II allowances: how and why?”, 2006, p 142.

(This statement was not made during the meeting, the quote is taken from a research paper, however it does reflect and neatly summarize other statements made by participants.)

⁶⁶ Gough, C & Shackley, S: “The Respectable Politics of Climate Change: the Epistemic Communities and NGOs”, 2001, p 332. Epistemic coalition: Coalition of groups or individuals promoting the ideas of an epistemic community.

and research institutions, both independent and governmental. Amongst the most used references and sources, besides different groups own internal reports, we find the Öko-institute's report to the WWF which is used by a variety of NGOs, the Ecofys "*Auctioning of CO2 emission allowances in the EU ETS*" report, the Point Carbon presentation "*Auctions – new market dynamics*" and Karsten Neuhoff from Cambridge University's presentation on Auction design options.

Applying the technical criteria provided by Peter M. Haas set up for defining an epistemic community on these groups and individuals, together with others unnamed here, based on my extensive readings of reports positions-papers, research conducted and presentations made by pro-auction representatives, they are revealed as such.

1) What is right to do. What should be done.

- Combating climate change is the priority but the European market and consumers must be protected as well, the extended use of allowance auctioning in the EU ETS allows both objectives to be fulfilled.

2) Why things happen in a particular way and how these perceptions provide the basis for elucidating cause-effect relationships.

- Auctioning is of vital importance for the well functioning of the EU ETS. Other options, such as benchmarking or grandfathering are not likely to produce as good results.

3) Shared methodological assumptions for determining the correct approach to a problem.

- Experience from the trial period as well as consensus amongst environmental economic theorists favours the use of auctioning as an allocation method before the other options at hand.

4) Specific and common actions to take relative to a specific problem to achieve what should be done.

- To promote an implementation of an extended use of auctioning.

By including in their argumentation the results of research conducted by prominent experts in the area of climate change like the IPCC, to more specialized and in this context more authoritative groups like Ecofys, the Öko-institute as well as governmental research entities, the epistemic coalition and the previously detailed epistemic community behind it managed to set the agenda. If the ETS was on its way towards a "*path*", the epistemic communities managed to break its stride and set it on another course.

They managed to frame the issue of allocation and the possible policy alternatives at hand to a degree in which The Commissions final proposal reflected their position. The securing of internal "*baggage handlers*" in the DG Environment and Ecofys even before the meetings began who were friendly to the idea of auctioning was crucial⁶⁷, and obviously the fact that many meeting participants were in favour of the idea was also very important. In fact, in

⁶⁷ (COM(2006)676 final

general, the only ones not in favour of auctioning were the industry representatives.

The underlying reason for the influence of a knowledge-society in favour of auctioning is of course the failure of the allocation process in the trial period where “*business*” had been allowed to set the terms as well as the inevitable uncertainty associated with complex matter such as climate change.

5.4 Framing the issue

The power of epistemic communities comes from their ability to set the agenda, to frame issues in a way that “*forces*” decision-makers in their desired direction. During the course of the meeting, and even before it, it appeared as if the only plausible options were benchmarking and auctioning. Grandfathering wasn’t even considered, presumably because of its failure during the trial period. Throughout the meeting, the pro-auction camp managed to freeze out the option of benchmarking by providing consistent information produced within the epistemic community which elucidated the “*correct*” alternative. The industry representatives did what they could to counter the arguments for auctioning, however, given that they relied heavily on internal sources and that their reports differed greatly between them, the strength that might have been theirs had they been more coordinated was lost. According to the theory, the deciding factor in these situations is the authority of the sources of information; the pro-auction camp used established experts in the subject widely accepted as reliable sources while the industry did not. The authority of the sources made it possible for auctioning to become accepted as the best alternative despite several obvious flaws.

5.5 Final proposal for a directive amending Directive 2003/87/EC

It is clear who The Commission, the defining actor and decision-maker in this context, listened to. In article 10 of the proposal presented in January 2008, auctioning of allowances is determined to be the basic principle for allocation method in the ETS. The proposal summarizes the main arguments for expanding the use of auctioning by stating that:

*“Auctioning best ensures efficiency of the ETS, transparency and simplicity of the system and avoids undesirable distributional effects. Auctioning also best complies with the polluter-pays principle and rewards early action to reduce emissions.”*⁶⁸

⁶⁸ COM(2008) 16 final, p 7.

6. The influence of epistemic communities, was it real?

Based on what I've learned about the ETS Review, it would certainly seem like epistemic communities played an important role in setting the agenda and framing the issue. However, the theory as presented by Haas and his theoretical companions is weak in several remarks and they have become blatantly obvious during the course of this work. Did they really exert influence over the process? We know that the arguments brought forward by meeting participants came from groups acting more or less cooperatively through loose bonds; we also know that the arguments were accepted by The Commission as valid and made it into the proposal, but whether The Commission actually was influenced by them remains questionable. The decision could have been made well before the meeting internally, the final acceptance of arguments could be a matter of them choosing it for political reason rather than because they felt compelled to because of the influence of epistemic communities. Although EU-critics might say that The Commission is distanced from the people of Europe and ignore the media, public opinion should not be underestimated.

Let's not forget that although the procedure followed what is categorized as the coordination method, European institutions are known for handling much of the process behind the scene.

It might even predominantly have been The Commissions wish to further comply with the polluter-pays principle which guided their decisions. I suppose the real question is if the same proposal for amendment would have been made had there not been an epistemic community present.

Also, as stated earlier, if the decision makers are familiar with the issue it is probable that they choose to *"call on an epistemic community whose ideas 'implicitly align' with their own pre-existing political agenda and will help them further it"*⁶⁹. There's no doubt that despite there being a general atmosphere of uncertainty regarding this complex issue, The Commission knew much more in 2007-2008 than they did 2003 when the ET Directive was established.

The main weakness in the theory as I see it is that it assumes that members of an epistemic community who aren't even aware of them being included in one at some level cooperate to enforce policy and that the success or failure of an epistemic community in large part depends on this assumed cooperation, ignoring the fact that it might just be coincidental.

Finally, the role of member states remains unclear, it would have been equally interesting to conduct this study from an Intergovernmentalist approach, just as epistemic communities might have been the determinant factor behind the proposal it seems equally plausible to claim that the difference was made by the explicit wish, and implicit demand made by member states to include more auctioning for the third phase of the EU ETS. The material collected for this study is not enough to suggest that epistemic communities was behind their support

⁶⁹ Haas, P M: "Conclusion: Epistemic Communities, World Order, and the Creation of a Reflective Research Program", 1992, 381.

for auctioning, the role of national media and public opinion as well as party conformation might have been significant.

Theoretical problems aside, based on what I've learned, I find it highly probable that The Commission was in fact influenced by expert groups in this case, whether or not they acted in unison or it was just coincidence will remain a question, as will whether or not they were the actual determining factor for the decision taken. To claim that my hypothesis has been confirmed would be incorrect; it has neither been confirmed nor denied in my view.

7. Epistemic communities in a democratic EU

The European Union prides itself in being a champion of democracy at the international stage, the Copenhagen criteria, the admission requisites demand applicants to comply with basic democratic principles. In The White Paper on Governance, democracy is the guiding principle⁷⁰. Yet, accusations of undemocratic practices are aimed at the EU on a constant basis, even more so since the process to sign the Lisbon Treaty began. The perception of the EU suffering from a democratic deficit is widespread amongst Europeans. As we have seen, the policymaking process in this case involved The Commission, member states and a wealth of individuals and groups from all over the world, and if we are to believe the findings, these individuals and groups are major actors in the policymaking process. So what does the apparent influence of epistemic communities, non-elected and many times external experts, mean for a democratic EU?

For one, it means that based on this case in particular, the criticisms are well founded. The EU *does* suffer from a democratic deficit, at least that's what it seems like at a glance. Based on traditional perceptions of democracy, the involvement of epistemic communities in policy processes is an aspect of EU governance worth criticising. But according to Laffan et al, critique aimed at the EU democracy based on democratic values derived from the nation-state is misguided⁷¹, "*what is the appropriate benchmark against which to test the Union?*"⁷². The EU is more than state, the governance system of the EU is vastly different from that of a Nation-state. So what is the appropriate comparison to make? The answer is that there are no real world comparisons to make. The EU is a governance system which is still developing, which handles issues and coordinates measures in way that nation-states have never done. Laffan et al state that the performance of EU democracy should be measured against the compliance with three core theoretical components of democracy which are: 1) rule of law; 2) deliberation and governance; and 3) participation and consent⁷³. Their conclusion is that it performs well. So what do epistemic communities mean for EU democracy? Based on traditional democratic values applied in democratic states, a step back. Based on performance criteria, where efficiency and quality policy based on expertise and knowledge are valued, a step forward.

⁷⁰ COM(2001) 428 final

⁷¹ Laffan, B & O'Donnell, R & Smith, M: "Europe's Experimental Union", 2000, p 203.

⁷² Ibid.

⁷³ Ibid.

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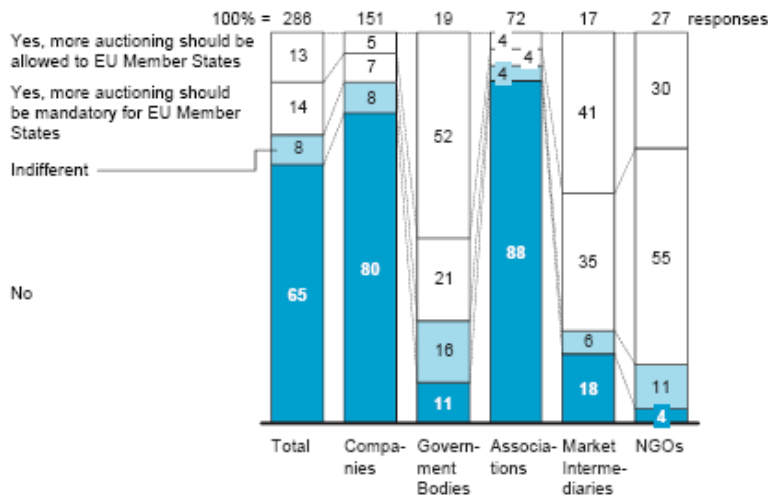
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Annex 1: Survey results (Ecofys)

MORE AUCTIONING BEYOND 2012? (1)

All stakeholders

Question: The EU Directive on emissions trading allows for auctioning of up to 5% of the allocation in the 2005-07 period and 10% in the 2008-12 period. We would like to ask you for your opinion on auctioning. Should the EU Directive allow for more auctioning beyond 2012?



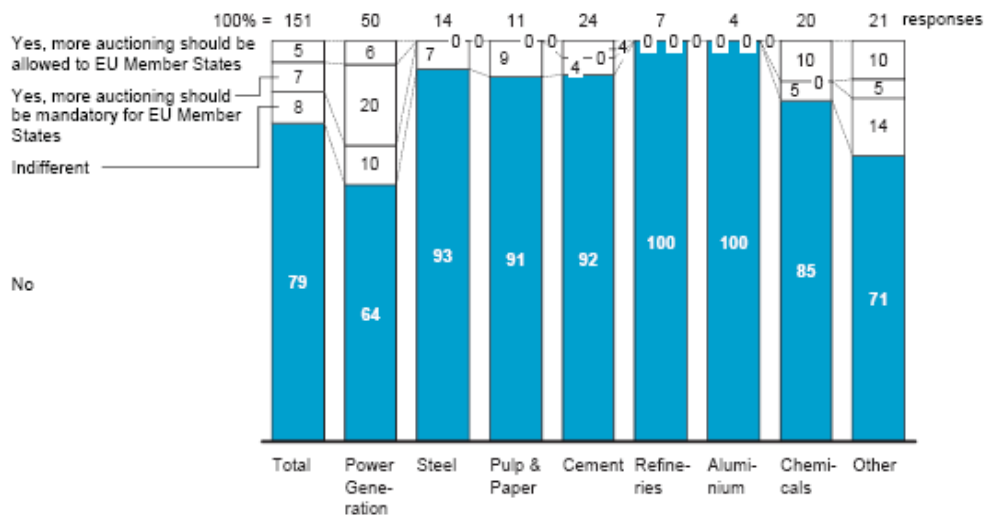
Source: Survey EU ETS Review

Figure 3-45: Opinion on more auctioning beyond 2012 (1)

MORE AUCTIONING BEYOND 2012? (2)

Companies

Question: The EU Directive on emissions trading allows for auctioning of up to 5% of the allocation in the 2005-07 period and 10% in the 2008-12 period. We would like to ask you for your opinion on auctioning. Should the EU Directive allow for more auctioning beyond 2012?



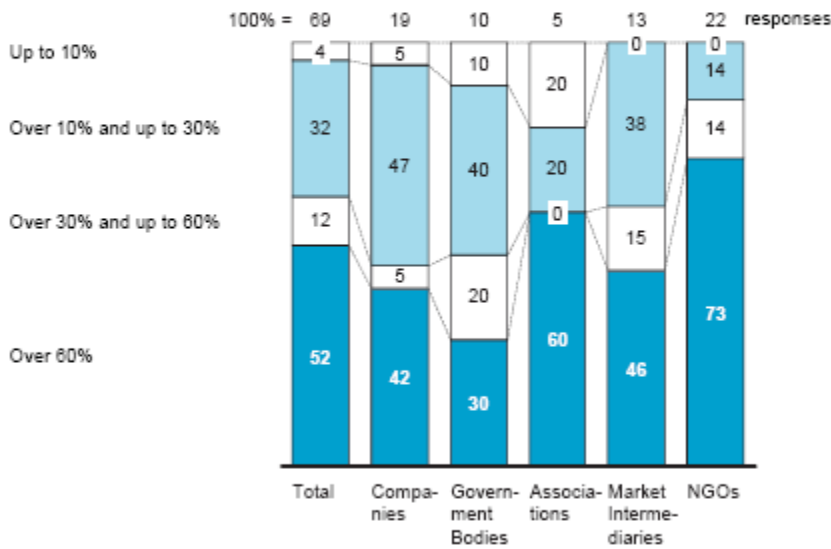
Source: Survey EU ETS Review

Figure 3-46: Opinion on more auctioning beyond 2012 (2)

IF YES, PREFERRED PERCENTAGE LEVEL OF AUCTIONING

All stakeholders

Question: If yes, what percentage level of auctioning would you prefer?



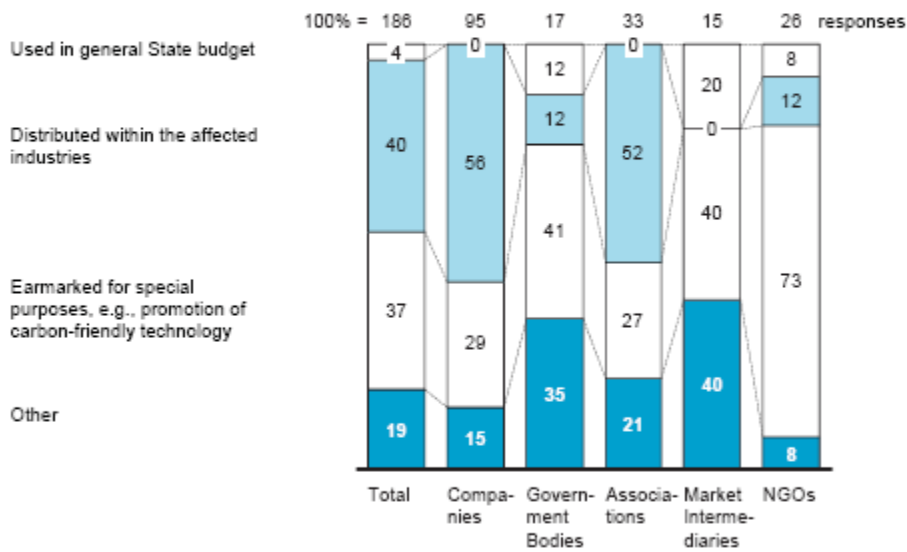
Source: Survey EU ETS Review

Figure 3-47: Preferred percentage level of auctioning

USE OF MONEY RAISED THROUGH AUCTIONS (1)

All stakeholders

Question: What should be done with the money raised through the auctions?



Source: Survey EU ETS Review

Figure 3-50: Use of money raised through auctions (1)