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Institutionalising New Forms of Environmental Policy-making in the EU

The Case of the Emissions Trading Scheme

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Abstract

The Emissions Trading Scheme represents a new departure in the field of environmental policy-making in the EU. With it, the EU has deployed a market-based instrument to meet its Kyoto Carbon Dioxide emissions reduction commitments. This paper will account for its emergence as a concrete policy output. It will first refer to the historical, ideational and interest-based logics which shaped its emergence, within the broader context of environmental policy-making in the EU. Using an integrated institutionalist approach incorporating all three strands of institutionalist thought, it will therefore account for the *sequencing* of these different logics at different stages of the policy-making process, from agenda-setting through to implementation and evaluation. Accordingly, it will be argued that this approach adds value in accounting for the change in logics which can often lead from good ideas unintentionally emerging as sub-optimal policies in the EU, as is the case with the first phase of the Emissions Trading Scheme.

Keywords: Environmental Policy; Emissions Trading; Policy-making Process; Sequencing of logics; Institutionalism.

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Abbreviations

CAP	Common Agricultural Policy
CO ₂	Carbon Dioxide
DG	Directorate General
EAP	Environmental Action Plan
ECJ	European Court of Justice
EP	European Parliament
ETS	Emissions Trading Scheme
EU	European Union
GHG	Greenhouse Gas
Mt	Megatonne
NAP	National Allocation Plan
NEPI	New Environmental Policy Instrument
NGO	Non-Governmental Organisation
QMV	Qualified Majority Voting
SEA	Single European Act
SO ₂	Sulphur Dioxide
TEC	Treaty Establishing the European Community
UNFCCC	United Nations Framework Convention on Climate Change
US	United States of America
VA	Voluntary Agreement
WWF	World Wildlife Fund

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1. Introduction

1.1 The subject of the Study

The Emissions Trading Scheme (ETS) is one of the most high profile policies instigated by the European Union in recent times. An innovative policy solution, it is a 'cap and trade' mechanism, in which the total amount of Carbon Dioxide (CO₂) emissions in heavy polluting industry is limited, and a framework is set up to permit the trading of emissions allowances, in order to award efficient emissions reductions processes, and punish those who continue to increase their level of emissions, under the principle of the 'polluter pays'. In its relative infancy, the ETS was put into action on January 1, 2005, and the first phase is due to run until December 31, 2007.

One cannot mention the ETS without almost immediately referring to the so-called "Kyoto commitments". As a signatory to the Kyoto Protocol, which is the plan of action laid out under the auspices of the United Nations Framework Convention on Climate Change (UNFCCC), the European Union (EU) has a collective commitment to reduce its total emissions of anthropogenic greenhouse gases (GHGs) to 8% below its 1990 levels, by 2012. The ETS is listed as a 'flexibility mechanism'¹ in Article 17 of the Protocol, thus outlining it as a blueprint for a strategy for signatories to honour their commitments in mitigating the human causes of climate change.

Despite its prominence as a policy option as stated in the Kyoto Protocol, the transition from policy idea to concrete policy output in the context of the EU is not a simple and straightforward story to tell. A number of factors must be taken into consideration: for instance, the European Commission was openly against this instrument, and in fact the emissions trading option was only included as Article 17 due to intense US lobbying² (Yamin, 1998). Other factors included the differing emissions reductions targets of different member states³; competitiveness concerns, such as that this policy may put excessive burdens on globally competing European

¹ In addition to Joint Implementation (JI), which permits developed countries to meet their commitments by transferring clean technology to countries in the former Soviet Bloc; and Clean Development Mechanisms (CDM), the most controversial of all, as they involve financing similar projects in the developing world: the "cleanness" of these projects have been called into question by many environmental NGOs (cf Lohmann, 2006).

² Notwithstanding the US' subsequent failure to ratify the Protocol.

³ This ranged from Luxembourg, which has to reduce its emissions of GHGs by 28%, to Portugal, which is actually allowed to increase its emissions by 27%, reflecting the differing levels of economic development of, respectively, the wealthiest and poorest member states of the old EU-15 in terms of GDP per capita (www.oecd.org).

industry (Position Paper, International Federation of Industrial Energy Consumers, Ford Europe and Solvay, 2003); and finally, concerns of environmental groups, who felt that a scheme such as the ETS would be easily abused by “generous” governments over-allocating permits to domestic industry (WWF Report, 2005) or that they do not penalise polluters enough (Jordan et al, 2005: 491).

1.2 The Relevance of the Study

The ETS has emerged as a concrete policy in the EU policy milieu, despite the myriad barriers mentioned above. A new environmental policy instrument (NEPI) (Damro and Luaces, 2003: 253), it can provide an insight into how these new measures are devised, shaped and implemented in the complex multi-level system of governance (Hooghe and Marks, 2001), that characterises the EU. It departs from the focus on ‘market cushioning’ (Sbragia, 2003: 128) that is characteristic of environmental policy up to now, as it is in fact applying principles of economic efficiency to tackle environmental problems. Effectively a market creation policy, or a ‘policy experiment’ (Buchner, et al, 2006: 2), it displays the difficulties in terms of learning and co-ordination when implementing untried policies in an international setting such as the EU; it offers lessons on how different priorities and norms are represented by different actors in the dense institutional setting, and how the subsequent institutional turf wars often lead to ‘lowest common denominator’ outcomes, or at least sub-optimal policy outputs (Scharpf, 1999). It therefore can provide insights into how institutional logics, be they rational, sociological or historical, govern the EU policy process. The institutional framework is thus displayed as an intervening variable, and not merely a parameter or conduit through which agents bargain over relative preferences (Caporaso and Stone Sweet, 2001: 225).

1.3 Purpose and Research Question

The purpose of the study is thus to account for the emergence of the ETS as a concrete policy, as it can add to our knowledge about how the institutional framework of the EU works, specifically in the field of environmental policy. It allows us to account for ‘task expansion’ (Zito, 1999) in the field of environmental policy, as it shows how member states often leave it to the Commission to legislate in this area, partly out of a lack of desire to shoulder the burden themselves, and partly out of the wish to gain a comparative advantage over competitors (ibid); furthermore, this division of labour between legislation and implementation can prove significantly problematic, especially with new policy instruments of which legislator and implementer have little experience.

Thus, the research question is:

How can we account for the development of the Emissions Trading Scheme, and what does this case tell us about the patterns and changes of logics in the process of environmental policy-making in the EU?

When addressing this question, it is necessary to account for the nature of the *polity*, that is, the macro-institutional setting, in which environmental policy in general has emerged during the evolution of the EU. The different actors in the institutional milieu will be described, and how their various institutional weights contribute to the creation of the balance of power that is discernible in the EU today. Secondly, the role of *ideas* will be analysed, and their influence as externalities which change the rules of the game when introduced into the policy debate. Finally, the various *interests* of individual and coalitions of member states, the Commission itself as a supranational actor, the European Parliament (EP), industry and environmental groups must be taken into consideration. These are all intertwined concepts, and no attempt will be made to keep them completely separate; rather, the paper will build its argument up from polity and actors, through ideas and interests, in order to give a full picture of the state of affairs.

1.4 Theoretical and Methodological Framework

The value of an institutionalist account of the policy-making process

The processes of agenda setting, formulation, decision-making and finally implementation of any policy in the EU usually involves the interaction of different behavioural logics at different stages of the decision-making process. The policy-making process can only be fully understood by investigating the predominance of different logics of political action at different stages of its cycle, be they logics of appropriateness or logics of consequences (March and Olsen, 1998: 952), or indeed historical logics stemming from the formation of the political venue – the polity – in the first place.

Therefore, this paper will investigate the development of the ETS into a concrete policy output, utilising the theoretical insights provided by historical, sociological and rational choice institutionalism. The analytical value of this approach is based on the fact that historical, ideational and interest-based factors in their sum can offer an insight into how policy is made in a dense, multi-level and multi-actor institutional setting such as the EU. The analytical value-added comprises pinpointing the *sequencing* of the different logics deployed in the process. But what are the assumptions underlining these different strands of institutionalist thought? Let us investigate briefly so as to approach this analytical process with a clear theoretical model in mind.

Historical institutionalism offers insights into the development of the *polity* itself over time, and the sequence of developments which have had the ‘unintended

consequence' (Pierson, 1996) of favouring one institutional set-up over other possibilities, often resulting in 'path dependence' 'lock-ins' or 'joint-decision traps' (Scharpf, 1988), that is, sub-optimal policy outputs not far from the original *status quo*, or the continuation of policies and practices that have outgrown their utility. This is of relevance to the study of the history of environmental policy, as it can give an account of how intergovernmental and supranational tensions have forged the environmental policy-making process in the way it is currently. Thus, the development of the polity, as a political venue for the making of policy, can be understood better through this framework. As Pollack says, there is great explanatory potential in 'applying historical institutionalist concepts with precision to predict and explain *variation* in the stability and path-dependence of EU institutions and policies over time' (Pollack, 2004: 151).

A sociological institutionalist account can help explain the role *ideas* play in the formulation of policies, thus it is of analytical value in all stages of the policy-making. It can offer an insight into the 'solution-driven problem-solving dynamic' (Aus, 2006: 8). Institutional actors, making decisions in cases where this is a high level of uncertainty of outcome - a situation which is likely to occur in fields such as climate policy - are less interest-governed (Haas, 1992) and are therefore more open to ideational inputs from epistemic communities (ibid). In a similar vein, an institutional logic of appropriate action (March and Olsen, 1989) guides them towards looking for solutions within their own institutional toolkit, as is the case with the Commission using the idea of economic efficiency to reinvigorate its environmental policy, summarised under the rubric of *sustainable development*. Additionally, it can account for the socialisation processes involved in 'policy transfer' (Dolowitz and Marsh, 2000), as polity-to-polity transfers of policy ideas can often be sub-optimal as institutional actors are unfamiliar with the intricacies of the policy itself, due to its novelty, highlighting the link between learning and socialisation process.

Finally, a rationalist account can help us understand the role domestic and institutional material interests play in the formulation, shaping and implementation of policy. It can add explanatory value in addressing the extent to which environmental policy is merely an outcome of the strategic interplay of different state and non-state interests, from setting the agenda to bargaining over the final piece of legislation. Actors are perceived as being 'strategic utility-maximisers whose preferences are taken as given' (Pollack, 2004: 139).

This conceptualisation is in marked contrast to the assumptions underling sociological institutionalism. Accordingly, how these different logics interact and take precedence over each other at different stages of the policy process will provide an analytical thrust throughout this paper. As Olsen puts it, 'the way lies ahead in integrating institutional dynamics, rather than choosing among them' (Olsen, 2002: 944). This paper uses this integrative theoretical framework thus, in discerning the sequencing of the different institutionalist logics used at different stages of the policy-making process.

1.5 Methodology: The Case Study Approach

The paper has a case study as its primary method of analysing the patterns of change in environmental policy-making. It focuses on the ETS as an example of this change. Therefore, it is a heuristic case study (Eckstein, 1975: 104) in order to “find out” how this is happening, interpreting the ETS as a case of this change. By first outlining the three principle factors - polity, ideas and interests – which govern this process, a solid theoretical framework will be built, based on an institutionalist analysis, in order to move ahead with analysing and explaining this case.

As it is an analysis of the policy-making process, some form of order must be given to how this is achieved. Accordingly, the model outlined by Howlett and Ramesh (2003), based on earlier work by Brewer (1974), Jones (1984) and Anderson (1984), the *Five Stages of the Policy Cycle*, is of utility as an analytical tool in conducting the aforementioned case study. It involves dividing the process into five steps: 1) Agenda-setting, the process by which problems come to the attention of policymakers; 2) Policy Formulation, which refers to how policy options are formulated within by policymakers; 3) Decision-making, is the process by which policymakers adopt a particular course of action or inaction; 4) Policy Implementation, which relates to how policies are put into effect; and 5) Policy Evaluation, which refers to the processes by which the results of policies are monitored by both state and societal actors (Howlett and Ramesh, 2003: 13).

This model will form a general heuristic device, although variations in vocabulary are used in different places. For instance, *policy shaping* is a term that can subsume both formulation and the earlier stages of decision-making, so it is a bridge of sorts, which is of worth when briefly discussing other cases in the first part of this paper.

In relation to sources, official documents, speeches and commissioned reports by private consultancies are referred to, in order to discern the dynamics at play in the process of forming the ETS. In addition, the considerable body of secondary literature will be consulted to help in outlining the explanatory model which has been described in the previous part of this section; finally, articles from *The Economist*, will be consulted in relation to changes in the Carbon Market which has developed as a consequence of the ETS.

2. Polity-building and Policy-making: The growth of environmental policy in the European Union

Before looking into the precise development of the ETS, an account of the development of environmental policy in the EU must be given, taking into consideration the development of the body of laws and the introduction of Treaty provisions specifically referring to issues of environmental protection. Also, it will be seen how the Commission has emerged as a central actor, but nevertheless the system is sufficiently diffuse to prevent its overall dominance.

2.1 The Commission and the Member States: the struggle between supranationalism and sovereignty

There was no official mention of the environment in the original Treaty of Rome. Nevertheless in the period between 1957 and 1973, there was considerable 'integration by stealth' (Weale, quoted in Zito, 1999: 147) in the field of environmental policy, in the classical, neofunctionalist sense. This entailed linking environmental issues – during this era usually concerning noise- and exhaust emissions, and control of dangerous substances – to the functioning of the common market (Zito, 1999: 147). It was deemed that member states with lower environmental standards had the opportunity to gain an unfair advantage over competitors, and thus a harmonised system of environmental regulation was necessary, above all in relation to industrial production processes. There was a deep-seated functionalist logic at work here, as the need for legislative harmonisation in one area necessitated legislation in other, related areas; the Commission took seriously its role of guardian of the Treaty.

Environmental awareness grew throughout the 1960s, culminating in the 1972 United Nations Environmental Conference in Stockholm. In the spirit of the times, the Commission seized the opportunity to expand Community competences in this field, drawing up the First Environmental Action Plan (EAP) in 1973 (Jordan, 2005: 4-5). This is regarded as the beginning of the era of purposeful and co-ordinated European environmental policy, culminating in 1981 with the establishment of the Environment Directorate General (DG XI) (Jordan, 2005: 4). Throughout the 1970s, policy continued to develop in an incremental manner (Lenschow, 2005).

However, to think that environmental policy was simply driven forward by the technocrats in the Commission during this era would be to over-simplify, as it would

entail disregarding other important developments such as the policy preference transformations which some member states underwent during this period. The ‘greening’ of West German policy that took place in 1982 (Hildebrand, 1993: 28) led to a massive new weight being placed behind the environmental agenda in the Community. This led to the deepening of a process by which environmentally conscious member states, usually comprising Denmark, the Netherlands and now West Germany, sought to magnify their higher regulatory standards onto the European level. They did this in order to diminish the costs of compliance for their domestic industries, by having competing industries in other member states abide by the same rules, but also to steal a march on the same competitors in this regulatory ‘race to the top’ (Weale, 1996: 133). The Commission at times seemed to take on the role of a rubber-stamping body, as it became a pawn in this game, most notably in the case of the Large Combustion Plant Directive⁴ (Sbragia 1999; Weale, 1996; Jordan, 2005; Zito, 1999), when West Germany succeeded in transferring its own legislation, almost intact, into the Community *acquis*. This was in contrast to member states such as the United Kingdom and Italy, who did not place such a high priority on environmental standards at the time.

The Commission’s status as an environmental actor was solidified at the end of what Hildebrand calls the ‘responsive’ phase by the advent of the Single European Act (SEA) in 1987. The SEA introduced Title VII (the ‘environmental title’) into the Treaty, and thus opened up a whole new course of action under Article 130⁵ (Hildebrand, 1993: 34-35). This title had symbolic importance in the sense that it enshrined environmental protection as a Community goal in itself, and thus left the Commission as the guardian of this norm. On the other hand, it introduced the principle of subsidiarity in the field of environmental policy, which determines whether appropriate action is to be taken at the Community or at the member states level (ibid. 35). The SEA also introduced the procedure of Qualified Majority Voting (QMV) in most matters of environmental policy, with some exceptions being the issue of fiscal measures (a failed policy preference of the Commission in the 1990s to tackle climate change, as will be discussed in the case study section) and decisions on appropriate energy mixes for individual member states being left under the unanimity procedure (Article 175 (2) TEC). From a purely institutional perspective, this gave the Commission far more powers as it strengthened the ‘organisational mandate’ of pro-environment actors such as DG XI (Zito, 1999: 153).

Therefore, what can be seen to be happening here is the development of an environmental policy in the Europolity, which had the effect of institutionalising a concern for environmental protection in the supranational institutions, whilst nevertheless guarding state sovereignty in sensitive areas such as taxation, as outlined above. Now it is necessary to look at the role of the other supranational actors, the European Parliament and the European Court of Justice.

⁴ 84/360/EEC

⁵ Now Title XIX, Articles 174-176 in the consolidated Treaty.

2.2 The European Parliament and the European Court of Justice: the ‘environmental champion’ and the standard bearer of environmental regulation

Throughout the history of the EU, there has been consistent complaints that democratic oversight has been notable by its absence, in the government and Commission-driven legislative process. However, the European Parliament has come to represent this oversight. Although being directly elected for the first time in 1979 (Bomberg, et al, 2003: 56), it only really achieved real powers under the SEA in 1987, when it was given powers under the ‘co-operation procedure’ whereby it could send legislative proposals it did not like back to the Commission, who then had to amend them or else allow them to lapse (ibid: 59). Finally, in the Maastricht Treaty in 1992, it gained the power of ‘co-decision’ with the Council of Ministers, which entails that it now formally shares legal responsibility with the Council under the ‘Community method’ (ibid: 56). The main example of the EP imposing its environmental influence is in the Car Emissions standards, when it tipped the institutional balance in favour of stricter standards (Hubschmid and Moser, 1997).

What are the consequences for the balance of power in the EU, especially in relation to environmental policy? Well, the EP is seen to be an ‘environmental champion’ (Burns, 2005: 87), which means another interest is now represented in environmental policy, as the Environment Committee has set its stall out as an advocate of those affected by pollution (ibid). The interests of this actor will be fully laid out below in the context of the analysis of different actor preferences.

Although not of particular relevance in the case of the ETS, the European Court of Justice (ECJ) has been an important actor in the context of environmental policy for two principle reasons. Firstly, it has ruled in favour of the Commission and against the Council in numerous rulings, the most recent of which concluded the Commission was acting within its powers to pursue criminal proceedings against environmental offences⁶, against the wishes of the majority of member states. What this means is that the ECJ acts to shore up the powers of the Commission in this area, thus increasingly its institutional weight vis-à-vis actors with a more intergovernmental preference for environmental policy-making, such as some member states (see below).

A second example of the ECJ acting to bolster environmental policy is in its rulings in favour of the right of individual member states to impose even higher environmental standards than those existent in Community law (ibid: 93). An instance of this occurred when in it ruled in favour of the Danish government imposing strict controls on the size and shape of recyclable bottles, something which non-Danish beer and soft-drink companies regarded as a barrier to free competition⁷.

⁶ *Commission v. Council C176/03*

⁷ *Commission v Denmark C302/86*

2.3 The Europolity and environmental policy: a case of ‘task expansion’

Viewing the history of the development of environmental policy in the EU in parallel with the development of the polity itself, it can be seen that as the EU itself increased its scope and complexity, so did environmental policy. Thus, the existence of an institutional framework which favours the increasing use of environmental regulation has been created, with heavy institutional hitters such as the EP working in favour of this goal, alongside the Commission, the ‘green’ member states, bolstered by the rulings of the ECJ; nevertheless, the member states have retained considerable sovereignty in this area (as in others) by refusing to hand over issues of taxation to the Community. In light of this, the historical development of the institutional balance of power has created a systemic leaning towards smaller, regulatory measures, rather than non-regulatory measures such as taxation and emissions trading. Accordingly, an account of the possible limits and negative consequences of attempt to move away from these ‘path dependencies’ (Scharpf, 1999) will inform the case study of the ETS below, as we attempt to account for patterns of continuity and change in this policy sector.

As Jachtenfuchs and Kohler-Koch (2001: 101) stated, ‘polity determines, politics and policy’. In the light of what has been described above, this paper argues that this is partially true. Nevertheless, the historical bias of the polity is but one (albeit important) factor which shapes the outcomes of policy. Therefore, it is necessary to look at two other factors: *ideas* and *interests*, before a holistic view can be taken of the development of a policy such as the ETS within the EU system of governance.

3. Environmental Action Plans, Climate Change and the EU: the influence of the ideas on the institutional framework

Up until now, this paper has focused on the tension between the various actors that has led to the development of environmental policy in the EU, as we know it today. As it were, this is an exercise in the definition of polity. The history of environmental policy has been used as a demonstrative case of how this polity has emerged and formulated a large corpus of policy in the environmental sector. Now that this has been outlined, it is necessary to examine another crucial factor in the creation of policy, namely ideas. Climate change policy will be increasingly referred to as an example, in the lead up to the case study towards the end of this paper.

3.1 Why focus on ideas?

There are a number of reasons for focussing on ideational factors as causal variables. Firstly, climate change policy, as a subfield of environmental policy, is a relatively new concern. The threat of climate change caused by anthropogenic GHGs only became apparent as scientific evidence was being accumulated in the 1980s, and thus it was not an “out there” or easy to observe problem, as was acid rain in previous decades. As Haas says,

In the case of international environmental issues, decision makers are seldom certain of the complex interplay of components of the ecosystem and are therefore unable to anticipate the long-term consequences of measures designed to address one of the many environmental issues under current consideration (Haas, 1992: 13).

Therefore, it is necessary to focus on how this idea was constituted as a problem that needed to be addressed, in the process providing a foundation for the development of policy.

Secondly, ideas about the general function of government undoubtedly have transformative effects in relation to selection of policy instruments, in the environmental sector as elsewhere. The so-called economisation of Commission environmental policy (Damro and Luaces, 2003) which has occurred in recent years also needs to be addressed, as it provides another insight into how ideational factors have causal implications.

Finally, the power of ideas in the form of policy innovations (ibid) and their role in policy transfers (Dolowitz and Marsh, 2000), in affecting the policy paradigm within a polity has to be analysed, as this can in some ways account for the learning processes that the Commission underwent during the 1990s in relation to climate change policy.

3.2 The Science of Climate Change and its ideational impact

At this stage of analysis, what is being investigated here is how external factors “plug in” to the policy receiving nodes of the polity, in order to infuse the policy paradigm with new ideas. This ideational input could be termed a *bottom-up externality*, as it arises out of society in the form of the scientific community, to influence the policy-making options of elite policy-makers. This is the case with the development of a concern for mitigating climate change amongst policymakers, and will thus be addressed below.

As Rayner states,

Issues such as stratospheric ozone depletion, climate change, and global biodiversity did not originate in public experience. Rather than science confirming public perceptions of danger, in these cases, scientists have formulated the perceptions of danger and sought to persuade politicians and the public of the need for policy measures (Rayner, 2006: 4).

Accordingly, climate change policy has been pushed to the top of the agenda by the work of scientists, but how did they get their ideas on to the public policy platform? One must look here to the interplay of ‘advocacy coalitions’ and ‘epistemic communities’ to find answers about how ideas are converted into institutions.

In order to understand this causal factor, a brief discussion of epistemic communities is necessary. An epistemic community is

a network of professionals with recognised expertise in a particular domain and policy-relevant knowledge within that domain or issue-area. They have a shared set of normative and principled beliefs, which provide a value-based rationale for the social action of community members (Haas, 1992: 3).

But what role do they play in the policy-making process? In summary, they can be seen to make four key contributions to this process. Firstly, they define cause and effect relationships; secondly, they shed light on complex interlinkages between issues and outline the consequences of not taking action; thirdly, they can help define self-interests of a state or factions within it, and finally, they help formulate policies (ibid: 16). Therefore, epistemic communities can be understood as idea seeders, in that they seed the policy paradigm with new ideas, concerns, or potential dangers which policymakers have to address. In the case of climate change, it is the overwhelming scientific knowledge which has been accumulated to display that humans have an

influence in the process of global warming (Oreskes, 2003), which has provided the idea seed for the numerous suite of policies which have begun to emerge over the past decade or so, the ETS being amongst the most high profile.

Thus, epistemic communities, such as that comprising the body of scientists concerned with the effects of anthropogenic GHG emissions on the global climate, provides an ideational “plug-in point” for policy entrepreneurs (acting in combination with institutional self-interest, as will be discussed in the next section). They open a ‘policy window’ (Kingdon, in Ramesh and Parekh, 2003: 135), through which new ideas can pass through to become policies. Policy entrepreneurs can thus utilise these ideas to build ‘advocacy coalitions’ (Sabatier and Jenkins-Smith, 1993). These coalitions, which can be motivated by more than one normative or instrumental belief, nevertheless have the original *idea* developed by the epistemic community as a touchstone. Thus, ‘provocative’ (Haas, 1992: 27) as it may be, it is argued here that ideas *do* to a certain extent inform policy, especially complex technical policy that is highly reliant on the informational and heuristic expertise of the natural science community. They undoubtedly play their part in changes in the patterns of policy-making in the EU, especially in the area of environmental policy. This can specifically be noticed in the agenda-setting stage of the policy-making process, as will be seen below. Now it is necessary to look at a second ideational factor that has had transformative effects: the changes in ideas of optimum policy instruments which the Commission took on board during the 1990s.

3.3 New governance ideas in the EU: economisation processes in EU environmental policy.

Throughout the 1990s there has been a continual debate as to the merits of the traditional ‘command and control’ regulation used by the Commission, especially in the area of environmental policy, where higher standards, and the unintended consequences of harmonisation, have led to increased costs for producers, and have been seen to become a stifling influence on economic matters. As Jordan (2005: 14) puts it, ‘of the three main modes of policy co-ordination (markets, hierarchies and networks), the Commission is under political pressure to make significantly less use of one of there (hierarchy) by adopting less regulation’. This is often what is referred to in popular opinion as the need to cut EU ‘red tape’. There are plenty of examples that need not be listed here, as they are so well-known in popular consciousness.

Due then to the apparent limits of command-and-control regulation, and other concerns such as its negative legitimacy impacts on the EU, there has been an upsurge in new environmental policy instruments (NEPIs) at EU level in the past fifteen or so years (Jordan et al, 2005). This was informed by a general shift from ‘government’, or hierarchical command and control, to ‘governance’, which is assumed to ‘allow social actors more freedom to coordinate amongst themselves in pursuit of societal goals, with far less (or even no) central government involvement’ (ibid: 481).

These ideas of governance are having an effect on the policy that is being produced by the EU in the field of environmental policy, such as the use of Voluntary Agreements (VAs), Eco-labels, and of course, Emissions Trading, to achieve its policy goals (ibid). But from where are these ideas emerging?

These ideational inputs could be termed, in line with the typology briefly referred to in the previous section, as *internally* generated, as it comes from a general reappraisal from within the Commission as to how to conduct policy in this sector.

There are a number of possible sources of this ideational shift. Firstly, the policies themselves are motivated by a genuine desire to be less intrusive, due to industry and the general public's regulation fatigue as mentioned above. There is a distinctively economic idea propping this argument up. Heavy regulation stifles innovation, so instruments which are market-based and/or voluntary provide the economic incentive for companies and individuals to diminish their environmental impact in a cost-effective or transparent manner, rather than being 'coerced' by big government. This could arguably also be linked to a cultural shift away from the German model of traditionally regulation-heavy policy to a more co-operative and voluntary approach, based on the British model of policy-making in this sector (Börzel, 2002: 166).

This is revealed in the general shift in rhetoric from the Commission away from appealing to people's sense of good behaviour, in favour of appealing to their self-interest. Mirroring the aphorism that it is better to appeal to a businessman's pocket than to his conscience, perhaps.

Secondly, there was a process of learning which the Commission was undergoing, which will be discussed below.

Finally, there was a perceived need to link up environmental policy with other policy sectors, as the effects of policies in other areas such as agriculture and transport could have significant consequences for the environmental policy. Therefore this idea was summarised under the rubric of 'sustainable development' and was explained in detail in the Fourth and Fifth EAPs (Zito, 1999: 153), culminating in its inclusion in the text of the Amsterdam Treaty in 1997 (Collier, in Lighfoot and Burchell, 2004: 338). This emphasis on both the words *sustainable*, which has overtones of environmental protection, and *development*, which connotes economic growth and increased prosperity, gives an important clue as to the increasing synthesis of these two logics in the field of environmental policy-making; this will be referred to when discussing the official rhetoric emanating from the Commission in the run-up to the implementation of the ETS, in the case study section below.

3.4 Policy Transfer – lessons learned from abroad

Having analysed the ideational impact of scientific advance and governance reform on the (re)formulation and reappraisal of environmental policy within the EU, it is now appropriate to analyse how policy ideas are transferred across polities (Dolowitz and Marsh, 2000; Damro and Luaces, 2003). This form of ideational input could be termed a *horizontal externality*, as it refers to the process by which policy ideas are copied or ‘lessons are learned’ (Sabatier and Jenkins-Smith, in Damro and Luaces, 2003). As Dolowitz and Marsh state, ‘policy-makers increasingly look to other political systems for knowledge and ideas about institutions, programs and policies and about how they work in other jurisdictions’ (Dolowitz and Marsh, 2000: 7).

In analysing why policies are transferred, Dolowitz and Marsh model a continuum, starting with voluntary transfer and continuing to coercion, with ‘mixed’ motive in between (ibid: 9). Thus, we have numerous situations whereby polities adopt policies because ‘they want to’, ‘it seems appropriate to do’ and because ‘they have to’. The beginning is thus governed by agency; the middle by a ‘logic of appropriateness’ (March and Olsen, 1989), and the final part is governed by structurally enforced obligations, such as international agreements. The weight of ideas based motives concomitantly recedes from high in the first case, to low in the last, as interest-based concerns induce the transfer.

An agency-based perspective on the transfer of ideas across polities would focus on the concept of ‘international best practice’. It is within the adoptive polity’s interest to assimilate these new ideas as they may lead to the better solution of societal problems in the polity in question. This can be seen with the adoption of US ‘welfare-to-work’ policies by the UK government in the 1990s (Dolowitz and Marsh, 2000: 15).

A mixed perspective could see the transfer of ideas through a process of *emulation*. At first sight this may appear a mere mirror of the ‘agency-based’ rationale, but in fact it is more to do with the ‘bounded rationality’ (*inter alia* Simon, 1983, cited in Müller, 2004) of copying one’s neighbours, in order to be seen to be equally as competent in solving societal problems. Rather than transferring the policy instrument out of a purely instrumental rationale, there is a social rationale which is obvious here. This is predominantly the case in the area of international human rights (Björkdahl, 2002; Manners, 2002), whereby countries are often positively encouraged to reform by leading the good example shown by ‘norm entrepreneurs’ (Björkdahl, 2002), rather than out of a need to reform based on societal demand.

A coercive transfer may involve the requirement to fulfill agreements made at the international level, or to comply with loan conditions made by international organisations, and so on (Dolowitz and Marsh, 2000: 16). The concept of emissions trading was coercively inserted into the Kyoto Protocol, as it formed a *sine qua non* condition for US negotiators for agreement on the climate deal at Kyoto, the upshot of which the EU got commitments to strict timetables for action, and concrete emissions

reductions included in the text (Yamin, 1998; Damro and Luaces, 2003). Nevertheless, it was an optional mechanism to meet the emissions reduction commitments, therefore it would lie in the middle of the abovementioned continuum.

Also of relevance is the relationship between the way policy ideas are transferred and their relative success, as policy failures or sub-optimal policy outputs can often be attributed to this process. Dolowitz and Marsh refer to ‘uninformed transfer’ in which policies are borrowed in despite the lack of information about how they are to be correctly implemented; ‘inappropriate transfer’, whereby social, economic and ideological conditions may differ too much from polity to polity in order for the policy to have the same success rate in both; and ‘incomplete transfer’, in which crucial elements which made the policy a success in its original setting are not implemented. All of these factors can result in the only partial success or total failure of the policies transferred. This, therefore, is an example of a clash of ideational logics and historical logics, as a polity may not have the *experience* to deal with the policy transfer. This is of particular relevance to the case study at the end of this paper, as arguably all of these transfer-related problems listed above have had implications for the success of the ETS in its first phase.

3.5 Ideas and their impact

This section of the paper has not explicitly argued that ideas - be they scientific, governance-related or policy-specific – are the *primary* causal factors in the rate of change in environmental policy-making in the EU; nevertheless, they provide one pillar on which to base an explanatory model as to how this dynamic process of change evolves. As has been mentioned, how ideas are introduced into the policy paradigm can have crucial impacts on the success or failure of future policy outputs, notwithstanding whether they are bottom-up externalities, internal contributions or horizontal externalities. They are of importance in setting the agenda, and also in the implementing phase of the policy process. Oftentimes, it is the incomplete implementation of a good idea, for reasons of historical inexperience or due to the weight of vested interests in the system, which can often precipitate sub-optimal policies. The following section will now refer to the third pillar of this explanatory model, namely the role interests – national, societal and institutional – play in the patterns of continuity and change in the environmental policy-making.

4. Interests, Strategies and Coalitions in the Environmental Policy Sector

4.1 The bottom line of policy-making?

Who or what group of actors wants environmental policy to be made in the way it is in the EU? What *interest* do they have in its formulation, shaping and implementation? Are they utility maximizing strategic actors, or are they subjected to the ‘bounded rationality’ of the dense institutional framework? This section will thus outline the predominant pattern of preferences in the field of environmental policy, as the fluctuating patterns of interests in a densely institutionalized system such as the EU needs to be understood in order to understand the changing patterns of policy-making in the polity. It will start by referring to the interests of different member states and how complex two-level games (Putnam, 1988) with domestic societal interests often entail that member states’ interests are not as fixed – or as principled - as is assumed in the conventional wisdom, especially in the case of states such as Germany (Liefferink and Andersen, 1998). It will then discuss the interest formation within the European institutions and how these are often formed as much a consequence of institutional self-interest as of genuine environmental concern. Finally, how sectoral, tactical and often loose groupings of both member states and supranational institutions bring about interest coalitions (Börzel, 2002) will be discussed; it will be thus displayed that cleavage in environmental policy-making is not merely two-dimensional (Lenschow, 2005: 315) as is often simplistically put, as different member states, Commission DGs and EP Committees have different priorities in different areas of environmental policy, and thus the potential alignments operate over many dimensions; however, despite some fluctuations, there are some actors who will time and again act more greenly than others.

4.2 Member State interests

There undoubtedly exists a ‘green core’ of member states within the EU (Liefferink and Andersen, 1998; Börzel, 2002). Usually considered to consist of Denmark, Finland, Sweden, the Netherlands, Austria, and to a certain extent Germany, it is often taken for granted that these states will automatically favour more, rather than less, environmental policy output at the EU-level. On the other hand, the ‘poorer’, southern member states of Greece, Italy, Spain and Portugal, along with the *nouveau riche* Ireland and the twelve new members states of Central and Eastern Europe, Malta and

Cyprus, are considered, by dint of their economy, society and geography, to have lower expectations or different priorities when it comes to environmental policy (Weale, 1996), compared to the wealthy and highly regulated northern countries, a group which the UK is increasingly aspiring to, especially when it comes to the use of NEPIs, as described above. Despite the apparent divide, the divisions are not always so two-dimensional, as has been mentioned above, and coalitions can often be issue-specific (Liefferink and Andersen, 1998: 262).

Let us first look at the interest-formation of the ‘green’ states and how they contribute to EU environmental policy-making. An understanding of state-society relations and a consideration of geography and economic history (Weale, 1996: 134), and the two-level games (Putnam, 1988) played by governments with their domestic interest groups are necessary to understand how green interests are formed. The green states are generally relatively rich, highly regulated and have long histories of industrial development (and the pollution that this brings with it) in comparison to the ‘other’ member states in the out-group. In line with their level of wealth, producers and consumers are more open to higher regulation – and thus higher marginal costs – in return for higher environmental standards (Börzel, 2002: 196-7). Taking their history of industrialisation and pollution, their high population density (in the case of the Netherlands and Germany) and public demand reflected in relatively popular green political parties, regulatory policy is popular and accepted amongst the public (Liefferink and Andersen, 1998; Börzel, 2002).

Accordingly, it is in the interests of green states to instrumentally maximise the benefits of their high environmental standards, in three ways, as outlined by Börzel. Firstly, they recognize the limits to pollution-control within national boundaries, as many pollution problems, such as acid rain or river pollution, are transboundary in nature. Thus, they seek common policies at the EU level to address these issues (Börzel, 2002: 197). At first glance this may seem like a general normative concern, but the instrumental worth of catering to domestic constituencies who demand action in this area cannot be underestimated.

Secondly, in order to ensure their high standards are not diluted by the overriding logic of market liberalisation driven by the EU, it is in their interests to seek to ‘upload’ their policies onto the European level of governance (Börzel, 2002: 196). Thirdly, by achieving this policy upload, domestic industry gains a comparative advantage over competitors in less green states, as they have to make up the lost ground, resulting in higher compliance costs and decreased competitiveness for the latter (*ibid*; Weale, 1996: 134).

These final two perspectives on interest-formation will be of great analytical worth when addressing the relatively surprising ‘greenness’ of some traditionally non-green member states, and vice versa in the case of some green member states, in relation to the ETS, as Germany was a notable sceptic on the issue of emissions trading (Wettstad, 2005).

As regards the ‘non-green’ member states, it can be said that environmental concerns are relatively low down the domestic agenda, and thus there is no urgency on the part of national representatives in the Council of Ministers to advocate environmental policies at the EU. Working on the conventional assumption that higher environmental regulation imposes extra costs on producers and consumers, they are worried that their economic competitiveness and growth – structurally fragile in the cases of Greece, Italy, Portugal and many Eastern European countries – will be undermined in the rush to impose higher standards across the board.

Another factor which must be addressed is the geographical one. Southern member states do not face the same environmental challenges (acid rain, river pollution and other side-effects of long-term heavy industrialization) that northern member states do (Weale, 1996: 134). Accordingly, some issues of concern for them, such as water supply, are not high up the agenda, as it is not a concern of northern member states, a fact which the southern member states might regard as ‘greenwash’ (Lightfoot and Burchell, 2004), that is environmentalism based on dubious ethical arguments or double standards, that might come across as mere rhetoric.

One might ask, how are the interests of the non-green member states served by the existence of an extensive corpus of environmental policy? Why do they not simply veto it? The related concepts of package deals and side-payments (Scharpf, 1999: 169) is of heuristic value here: rather than agreeing to ship the higher relative marginal costs implicit in environmental regulation without recompense, they instead receive payments in the form of Common Agricultural Policy (CAP) and Cohesion Policy transfers, thus lightening the burden of regulation that economic and environmental regulatory integration impose (Sbragia, 2003: 128). The issue of side-payments is also of significance when it comes to Kyoto implementation, as the traditionally poorer member states do not have to reduce absolute quantities of emissions relative to their 1990 levels, under the principle of burden-sharing enshrined in Article 4 of the Kyoto Protocol.

A clue as to how the ETS reflects changing patterns of environmental policy-making in the EU is discernible in the previous two points made, as some southern and eastern member states were considerably more enthusiastic about emissions trading than the traditional ‘green’ coalition, demonstrating that environmental policy-making is not so two-dimensional as what it is often taken for being.

4.3 The Commission’s interests and its interaction with European level Interest Groups – output legitimacy and bureaucratic promiscuity

It is not only member states that have interests which they jealously seek to guard, whether they follow a logic of appropriateness or a logic of consequences. The Commission also has its own interests, although they are perhaps more nuanced than

those of the member states. What constitutes its institutional interests? The first and most blatantly obvious one is that the Commission's primary interest is in guarding the goals of the Treaty, that is, designing legislation in line with the broader Treaty goals such as the completion of the internal market, or environmental protection, and ensuring the implementation of EU law, for which it depends on national or regional governments and administrations (Lenschow 2005).

Intimately linked with this interest, then, is the interest to maintain high standards of practice (output legitimacy), and also to maintain its relevance as a central actor in the policy-making process. Environmental policy has been targeted by the Commission as a high profile case of its effectiveness in working for European citizens (cf Information and Communication Strategy for the EU, 2002); therefore increasing the Commission's role in this policy area can serve to highlight its worth, and generate output legitimacy, amongst public opinion.

What are the implications of these factors for the policy-making process? The first implication is that the Commission often seeks to depart as far as possible from the *status quo* at the policy formulation stage, when designing Proposals and Green Papers, in order to attain, in its opinion, the highest quality legislation possible, as it is well aware that its proposal will be subsequently subject to watering down, especially when its proposals have significant potential cost implications for industry.

A second implication is that, in order to obtain the highest level of legitimacy in the view of public opinion and national governments, it resorts to 'bureaucratic promiscuity' (Mazey and Richardson, 2001). That is, it seeks to encourage the consultation and participation of private interest groups in the policy-making process (ibid). Along with its concern for being legitimate, it also draws considerable information (which is in many ways related to the ideational factors previously outlined) and support from these groups, thus increasing its resource capacity, something which is quite important when one considers its limited staffing arrangement vis-à-vis larger member states (Bomberg, et al, 2003: 48). Interest groups, for their part, get to play a (possibly disproportionately) key role in shaping policy, which completes the feedback loop of legitimacy, as interest groups such as industry federations and environmental NGOs are satisfied with their level of input (Mazey and Richardson, 2001). As Weale puts it,

many apparently small technical changes in the rules can turn out to have major cost or environmental implications, so that the involvement of interest groups in the processes of standard-setting and rule-making should not be regarded as trivial or simply as a matter of courtesy (Weale, 1996: 136).

Up until now, the Commission and interest groups have been analysed without taking into consideration sectoral differences (Egeberg, 2005: 8). However, considerable conflicts of interest exist between different Directorates General (DG) within the Commission, which nevertheless must make all decisions collegially, reaching an internal consensus of all twenty-seven sectoral Commissioners before publishing policy proposals (Bomberg, et al, 2003: 48). Therefore, DG Environment

will often come into conflict with DG Industry, reflecting the fact that each DG defends its own part of the institutional and sectoral ‘turf’. The relative influence of different Commissioners, along with the preferences of the President of the Commission, can play a decisive role in which way the balance of the intra-institutional compromise tilts (Egeberg, 2005: 7).

Thus, along with being a crucial ideational plug-in point, as described in the previous section of this paper, the Commission also serves as a battleground for differing interest groups who seek to shape Commission proposal to reflect their own strategic preferences. The Commission’s promiscuity undoubtedly aids this process. Now it is necessary to look at the interests of the EU’s legislature, the EP.

4.4 The European Parliament

The interest formation of the EP mirrors in many ways that of the Commission, as it is sectorally divided in the form of different Committees, (such as the Environment Committee); it has limited capacity to analyse the significant amount of technical legislation in the field of environmental policy making (Burns, 2005: 99); therefore, it has to be quite ‘promiscuous’ when it comes to consulting interest groups, especially in the case of environmental NGOs (ibid). As described in section 2 of this paper, its competence in this field has expanded considerably over the years, and it now sees itself as ‘an environmental champion’ (ibid). Accordingly, it seeks to throw its institutional weight around, thus legitimating itself in the eyes of its electorate, as a protector the general interest, against polluting big industry, as was the case with the Auto-Oil Programme, in which Environment Committee *rapporteur* Ken Collins played a key role in forging an environmentally-friendly agreement (ibid).

Nevertheless, the consensual nature of decision-making in the EP (no political group has an overall majority) renders it unlikely to propose radical amendments to legislation (ibid). Despite this, the Greens are able to muster considerable resources for issues they consider of high priority due to the points system of allocating Committee chairs, along with their position as fourth largest parliamentary grouping (ibid).

The EP has traditionally been active in the decision-making stage of the policy-making process, in the form of issuing opinions after first, second or third readings (ibid). Nevertheless, in co-decision sectors they have started issuing own opinion reports for the attention of the Commission, and in general have sought to informally set the agenda by arranging conferences of experts in particular fields. In this way they have an informal right of setting the agenda, so that they can better represent their institutional interests.

In the case of the ETS, the EP was manifestly passive, perhaps due to the sheer technical complexity of the issue (Wettstad, 2005) and also due to the possibility that

they were quite satisfied with the seeming environmental progressiveness of the Commission's legislative proposal. Bearing this in mind, it is necessary to move on to talk about another feature of interest representation in the EU: the formation of trans-institutional and trans-actor sectoral coalitions.

4.5 Coalitions of interests in the EU

There are indeed certain actors in the EU milieu who are 'greener' than others. The northern states are generally greener than their southern and eastern neighbours; DG Environment is greener than DG Industry; the Environment Committee of the EP is greener than its Industry counterpart. Despite this, there is scope for issue-specific coalitions, as member states' interests are not as fixed as the 'green'-'non-green' model would have one believe, although there is a discernible alignment along these lines in general. Nevertheless, it is of explanatory worth, and it also can be of aid in understanding the links that occur between DG Environment, the Environment Committee and member states such as Sweden or Denmark. The abovementioned Auto-Oil and Car Emissions standards were examples of this coalition formation in the environmental sector, so there is considerable empirical evidence that this occurs. It will be noted in the case study how the EP gave its tacit consent to the proposals of the Commission, thus speeding up the legislative process (Wettestad, 2005). Therefore coalitions are of utility, but their stable formation cannot be guaranteed, especially considering the fact the Commission was set *against* the EP and member states such as the Netherlands and Germany in the case of the Car Emissions standard (Hubschmid and Moser, 1997; Burns, 2005).

4.6 Polity, ideas and interests matter at different stages of the policy-making process

To conclude the first half of this paper, the historical development of the polity has been accounted for, to display the development of patterns of environmental policy-making over time and how this has affected the potential to act in some areas, such as regulatory policy, and not in others, such as fiscal policy. Secondly, the role of ideas in the development of environmental policy has been analysed. Ideational factors are crucial in a sector that relies so much on technical knowledge; likewise, the Commission must constantly reassess its priorities and thus come up with new ideas on how to attain broader goals such as sustainable development. Furthermore, the influence of policies that can be transferred from other polities has been accounted for.

Finally, the role of instrumental interests, and how they are elaborated at the European level have been discussed. Instrumental bargaining has a key role to play in the latter stages of the policy-making process, that is, in the decision-making and implementation stages, as actors begin to realise the distributive implications of new policies, and react accordingly in order to maximise their relative gains or minimise relative losses, forming coalitions with other actors if needs be. There exists a general divide between 'green' and 'non-green' actors across member states, Commission

DGs and parliamentary Committees. Nevertheless, the instrumental nature of policy-making suggests that these preferences are not always fixed, and can shift from issue to issue, as coalitions of interests are formed to achieve collective goals, perhaps motivated by different factors. Now it is necessary to delve deep into the policy-making process, to look at how the ETS has emerged as a policy in this sector of the EU. It offers an opportunity to test which factors are most influential at which stages of the process; thereby the *sequencing* of instrumentally, historically and ideationally motivated actions can be accounted for, in the context of a broader institutional setting developed over the past fifty years. Also, it can allow us to account for possible changes in environmental policy-making as climate change policies come to the fore. Let us now look, therefore, at the development of the Emissions Trading Scheme.

5. Case Study: the Emissions Trading Scheme

The ETS is the first real policy output after over a decade of attempts by the Commission, amongst other actors, to address climate change with concrete measures. To provide the most comprehensive analysis of the change this has represented in environmental policy-making in the EU, it is necessary to trace its development from the broader concern about climate change pushed onto the agenda by climatologists, which led to preliminary failed efforts to address this threat, such as the carbon tax initiative which was rejected by member states in the mid 1990s. Therefore, this study will proceed following the five stages set out by Howlett and Ramesh (2003): agenda-setting, policy formulation, decision-making, policy implementation and policy evaluation. Nevertheless, it will not be so neatly linear, as an account for the failure of the carbon tax proposal is central to the understanding of the development of the ETS; hence its development too will be briefly referred to in the course of this analysis.

5.1 Setting the Agenda: Ideas, international agreements and stillborn policies

The first stage of policy-making, setting the agenda, sets out the problem that needs to be addressed by policymakers. As Howlett and Ramesh (2003) say, ‘the manner and form in which problems are recognized, if they are recognized at all, are important determinants of how they will ultimately be addressed by policymakers’ (2003: 120). The Emissions Trading Scheme can be seen as the most high-profile outcome of the EU’s climate change policy. It will be seen that an ideational logic is predominant in the agenda-setting stage in such a complicated policy sector such as climate change. Let us now look at how these ideas propelled the concern for climate protection onto the EU agenda.

5.1.1 Climate Science and Climate Change

In his history of global warming, Weart pinpoints the 1970s as a time when developments in computer technology allowed climatologists - previously a relative backwater of the broader science of geophysics – to model global climate patterns for the first time (Weart, 2006: 15). For the first time, scientists could get an idea of how changes and fluctuations in the global climate were occurring. Combined with information gleaned from ice-cores in Greenland, and increasing evidence that CO₂

had a warming effect on the earth's atmosphere, and finally, record temperatures and extensive droughts in the summer of 1988 (ibid), had the cumulative effect of propelling this global human security issue (Stripple, 2005) onto the agenda of most developed countries, including the European Community at the time. In light of these circumstances, the influence of ideas in setting the agenda for political action can be seen. This is evident in the fact that the call to action was a preventive call; there was no real sense amongst the general public about the issue being "out there". Therefore, it was 'sung into existence' (ibid, 2005: 5) by the scientific community. Weart describes how concerned scientists combined efforts to raise awareness, making it into newspaper reports, and even more significantly, creating metaphors such as James Lovelock's "Gaia hypothesis"⁸ (Weart, 2006: 30). The concern percolated into public consciousness, and thus it came to the attention of policymakers.

The Commission addressed the issue for the first time in 1988, with its first document published on the matter⁹, and it became officially recognized as a problem to be tackled under the terms of a Commission Work Programme (Damro and Luaces, 2003: 260). By 1990, a commitment had been made to reduce CO₂ levels by 2000 to the level in 1990, in a declaration by a joint Council of Energy and Environment Ministers (ibid). Therefore, the broader agenda was set by the EU to tackle this problem, leaving open a 'policy window' (Howlett and Ramesh, 2003: 120) for potential policy entrepreneurs to exploit.

This process of agenda-setting displays the important influence of ideas at this stage of policy-making. The body of climatologists who brought this threat to the attention of the broader public and policymakers, represents an example of an epistemic community (Haas, 1992). This can be seen as a normative project, as they framed the issue (Björkdahl, 2002) and offered a plug-in point for receptive policymakers to take up the initiative. The institutional set-up of the European Community at the time, which had acquired official competence under Article 130 of the SEA-amended Treaty, as mentioned above, was receptive to such concerns. Accordingly, we see the historical factor of an environmentally friendly Treaty amendment was also of influence here, along with the nevertheless dominant ideational factor, provided by the epistemic community, which *seeded* the concern in the minds of policymakers, thus setting the agenda for action.

5.2 Policy Formulation and (non)-Decision-making: the Carbon Tax Initiative

⁸ James Lovelock is a notable environmentalist who is the author of *The Gaia Theory* (1979) and *The Ages of Gaia* (1988), which consider the planet Earth as a self-regulated living being.

⁹ European Commission, 1988. "The Greenhouse Effect and the Commission". COM 88 (656), cited in Damro and Luaces, 2003: 79.

5.2.1 The Carbon Tax: a stillborn policy

Formulating a policy involves the combination of good (or bad) ideas and the motivation of an actor to carry them through. The Commission took it upon itself to formulate a policy to tackle the perceived risk to the climate from human activity. It arguably sought to display, what Underdal (2002) terms ‘problem solving capacity’. We begin to see a changeover here from a purely ideational logic of policy-making - that is, calling attention to a problem based on considerable knowledge accumulated about the issue – to a logic of institutional self-interest, as the Commission moved possibly out of a motivation to set itself up as a responsible steward of the climate, thus adding to its body of environmental policy.

In line with the particular appeal to the Commission, answering the call to action on climate change fitted in nicely with the Community’s self-image as a global leader in environmental affairs. There was a general belief in the EU at the time (especially amongst the ‘green’ member states) that industrialized countries had to take on special responsibilities to reduce emissions, as they historically constituted the dominant emitters of GHGs (Damro and Luaces, 2003).

The Commission seized on the window of opportunity opened up by this change in events by formulating a proposal for a Community-wide carbon tax in 1992 (Weale, 1996; Damro and Luaces, 2003; Jordan et al, 2003; Wettestad, 2005), within the context of the Fifth EAP, ‘Towards Sustainability’. This was also arguably prompted by Denmark in its ‘environmental activist’ role (Lieberink and Andersen, 1998), which hoped to lead by example on this issue; it had unilaterally introduced a national carbon tax in 1993.

5.2.2 Non-decision-making

Nevertheless, the issue of using fiscal measures to tackle environmental problems is decided on a unanimous basis in the Council of Ministers (Article 175(2) TEC), so therefore it was shot down by Spain, Portugal, France, Greece, Ireland and the UK, for various reasons ranging from claims of cost to ideological grounds (Weale, 1996: 132). However, it dragged on as a proposal within the Commission for a number of years, re-emerging as an energy tax in 1997, but it never reached the implementation stage (Wettestad, 2005: 12), perhaps reflecting a vain attempt by the latter to be seen to be doing something. It became the poster boy of failure to address climate change in a proactive, preventive way in the EU, and by the time of the Kyoto negotiations, it had led to a certain sclerosis in this policy area (ibid: 12).

But what logics were dominant here? The Commission dominated the formulation process, but once it came to the decision-making stage, member state interests came to the fore, due to the facilitating role played by the historical logic of unanimity. The Commission sought to act progressively on the window of opportunity given to it by formulating a policy to tackle global warming, but it crucially chose an

unacceptable procedure for attaining its policy goal: taxation. This proved to be the incorrect choice for three reasons. Firstly, some member states saw this as an intrusion into their jealously guarded right of discretionary taxation, and thus sought to prevent any move on this area on ideological grounds. Secondly, industry was suspicious of this process and lobbied member state governments accordingly, eager to evade any extra fiscal burdens which might eat into their competitiveness. Finally, the imposition of new taxes at a time of considerable economic troubles, for a preventive, rather than an ameliorative measure, was seen by many as the Commission acting in institutional self-interest (Jordan, et al, 2003), and thus moving a Trojan horse into areas of new competence.

What this means is that they feared the Commission was involved in a publicity campaign, through which new revenues generated by this procedure could be put to work to fund environmental programmes with the Commission's "stamp" on it, generating 'output legitimacy' (Dobson and Weale, 2003) in the process. Therefore, the Commission failed, as it did not take into account the fear of the member states of the path dependence they could enter into if they allowed the Commission this competence. When it comes to budgetary or fiscal measures, the rationalist logic of consequences quickly comes to the fore as member states engage in agreeing on 'grand bargains' (Laffan and Lindner, 2005: 196). Accordingly, a rationalist approach can provide an insight into the failure of this *stillborn* policy.

5.2.3 'Re-opening' the Window of Opportunity: the Kyoto Negotiations

The importance of ideas in setting the agenda for action in such a technically complex sector as climate policy, has been noted in Section 5.1. Nevertheless, external impulses (Wettestad, 2005: 2) can also play a role in reigniting interest in tackling a particular collective action problem such as climate change. They can also provide a venue for transferring ideas on how to tackle the aforementioned problems (Dolowitz and Marsh, 2000). This is the role the Kyoto Negotiations played in 're-opening' the window of opportunity for policy formulation.

The negotiations that took place in Kyoto in 1997 over a global agreement to tackle climate change pitted two policy paradigms against each other: the EU's 'risk prevention leadership', against the US' 'free-market environmentalism' (Damro and Luaces, 2003). The EU attended in the hope of acting as a global leader on this issue, and sought to export its policy strategy into the global arena, that is, regulatory measures to mitigate environmental risk (ibid). The US, on the other hand, sought to avoid burdensome commitments that could potentially damage its powerful and influential petroleum and automotive sectors, so it brought the concept of emissions trading to the table. The EU was sceptical of this policy as, deployed in tandem with the other two proposed "flexibility mechanisms", the CDM and JI, it allowed big industries in developed states to buy their way out of their commitments (Yamin, 1998).

Consequently, a ‘package deal’ (Moravcsik, 1998) was struck in which the EU agreed to the inclusion of these flexibility mechanisms, in return for which it was permitted to implement the Protocol collectively; it also obtained the inclusion of fixed emissions targets and concrete timetables (Yamin, 1998). Therefore, the Kyoto Protocol ‘exported’ the idea of emissions trading from the US¹⁰ to the EU. Nevertheless, the EU was not obliged to use this policy to reduce their emissions, as Article 17 of the Kyoto Protocol (which deals with emissions trading), states ‘the parties included in Annex B [developed countries] *may* participate in emissions trading for the purposes of fulfilling their commitments under Article 3’ (my italics).

Accordingly, the Kyoto Protocol had the dual effect of ‘re-opening’ the window of opportunity as, despite the numerous criticisms levelled at it, it comprised a landmark in global co-operation, following up the UNFCCC with concrete commitments to reducing GHG emissions. It therefore provided new impetus to the activities of the Commission in this policy area, and had the unintended consequence of seeding a new policy idea into the European environmental policy-making paradigm, through a process of *horizontal* policy transfer. Impetus was provided to a logic of appropriate action, giving it an advantage over a logic of pandering to the lowest common denominator of domestic interests, as the EU now had concrete emissions reductions to meet, by 2012. Thus, change was in the offing for the pattern of policy-making in this sector.

5.2.4 Formulating the ETS: From part of a broader strategy to Green Paper

The formulation of the ETS was underscored by its status as a ‘new idea’ in the EU arena, to tackle a relatively new collective problem. In this scenario, the hand of the policy entrepreneur, or formulator of the policy, is considerably strengthened (Coleman and Tangermann, 1999), as is the importance of the idea *in itself*. Therefore, member state interests are somewhat subdued in this stage of the policy-making process, due to the novelty and accompanying technical complexity of the new formula (Alchian, in Haas, 1992: 14). Nevertheless, collective action problems, such as the need for concessions to the most antagonistic member states, would be stored up for debate in the implementation process, to which the disagreements are often transferred, as member states learn more about the consequences of implementing the new policy, as will be analysed below.

The first mention of emissions trading as a possible option for EU collective action appeared in the Commission Communication “Climate Change: Towards a post-Kyoto Strategy”, published in 1998 (Wettestad, 2005: 3). A year later, it appeared again in the Commission’s Communication on “Preparing for implementation of the Kyoto Protocol”. However, there was no specific design laid

¹⁰ Where it had been implemented, with relative success, to tackle the US’ problem with SO₂ emissions, responsible for acid rain, as a provision in the Clean Air Act, 1990 (www.epa.gov).

out for a putative ETS scheme until the publication of the Commission Green Paper on GHG emissions trading within the EU, in 2000 (ibid). Three analytical points must be made in relation to this Green Paper. In formulating the scheme, it constantly referred to the “cost effectiveness” of the policy¹¹. This reflected the general turn towards what was termed “economisation” above. In other words, it sought to underline the economic *bona fides* of its activities in this field, thus perhaps seeking to distance itself from the commonly held conception that it was a stifling regulator. Furthermore, the actual *choice* of instrument, straight out the American free-market environmentalism model, was a double guarantee for the Commission in this regard.

Secondly, the language of the Green Paper reflected in many ways a policy document published by the Center for Clean Air Policy, an American environmental think tank, based in Washington, DC, in 1999¹². This clearly displays two more processes in action: the influence of external epistemic communities, and their role in passing on the baton of new policy ideas; in this case, horizontally from the US polity to the heart of the Europolity, to a receptive audience: indeed, Wettstad cites the internal driver in the Commission towards emissions trading as being Peter Zapfel, who had studied it in the US (Wettstad, 2005: 12). Additionally, it displays the ‘promiscuousness’ (Mazey and Richardson, 2001) of the Commission in inviting submissions such as these, and the potential influence this grants relatively small epistemic communities in the policy-making process.

Finally, the Commission was seen to advocate certain ideas such as harmonisation of implementation, that is, of the rules of monitoring, reporting and verification (Commission, 2000: 5), and as a follow up to this it set up the debate on the relative merits of “grandfathering” versus auctioning, as a method of allocating pollution permits (ibid: 18-19). Harmonisation entailed a greater role for the Commission, thus strengthening its position and furthering its institutional interests in the process. Grandfathering entails the recognition of the historical right to pollute, and therefore companies are granted free allocations under this system; auctioning, on the other hand, distributes permits under the “polluter pays” principle (ibid: 18). The Commission appeared to favour auctioning over grandfathering (Commission Green Paper, 2000: 18); however, it suggested a mixed system might be the most appropriate. This debate would inform the final decision-making process, setting the scene for inter-institutional bargaining between the Commission, the EP and the Council, and subsequently would provide ammunition for the critique of the ETS at the policy evaluation stage.

From a theoretical perspective, what we can see here happening is an increasing logic of appropriateness forming in the Commission, as it learned its lesson from the failure of the Carbon tax directive. Therefore, the Commission itself was shepherding the process from the ideas stage to the bargaining stage, preparing the

¹¹ Cost-effectiveness was used over ten times in the course of the 28 page document.

¹² cf Design of a Practical Approach to Greenhouse Gas Emissions Trading Combined with Policies and Measures in the EC.

ground for a shift in the logic driving the process. Let us now see how this process unfolded.

5.2.5 Deciding on the ETS: an “ultra-quick pregnancy”

In line with the formulation process, the Commission dominated the decision-making process, as it had a massive informational advantage over the EP and the member states. This, combined with the need to have the Directive published by late 2003 at the latest, led to what Wettestad describes as an ‘ultra-quick pregnancy’ (Wettestad, 2005: 3). Only proposed in October 2001, it was published as a Directive in October 2003.

There was some minor wrangling amongst the different institutions over the content of the Directive. The EP, perhaps overwhelmed by the technical detail, tabled relatively few amendments. Nevertheless, in relation to the method of allocation (which would turn out to be the main problem with the First Phase of the ETS) it sought to raise the threshold of auctioning to 15% of the total permits (ibid: 6). The Council, in its Common Position, sought 100% grandfathering, perhaps reflecting the lobbying efforts of domestic industry. However, there was a split in the Council, as Austria, Finland, Denmark and Sweden favoured more auctioning, whereas other countries, notably Germany, favoured less (ibid: 13). The final agreed percentage was a mere 5%, the rest being “grandfathered”, or handed out for free (ibid: 6). As regards the scope of the scheme, the EP favoured a broader scope covering as large a swathe of industry as possible. The Council, predictably enough, favoured a narrower scope, reflecting the Commission’s proposal to start narrowly and expand in future phases (ibid: 7). Similarly predictable differences arose in other areas relating to compliance and linkage with the other flexibility mechanisms, which had the effect of making emissions reductions far easier than expected, or than would be credibly believed, thus creating problems in the carbon market (ibid: 7).

The decision-making process highlights three analytical points which were discussed previously in this paper: namely, in situations of great uncertainty and technical difficulty, interests play a lesser role, and the influence of ideas increase (Haas, 1992). Therefore, the Commission, having learned the policy from the US, stood in the best position to kick-start the decision-making process. This maintained a relatively strong influence supporting the broader ideational goal, which represented a change to what occurred in the case of the carbon tax proposal.

Secondly, outside influence can often coerce policy transfer into taking place, diminishing the influence of state interests (Dolowitz and Marsh, 2000): the need to meet Kyoto commitments, the failure to come up with concrete policies (cf carbon tax), and the need to show global leadership in the context of the US’ unilateral withdrawal from the Kyoto Protocol in 2001, forced the hands of even the most sceptical member states, who included Germany amongst their number (ibid: 16). The

time factor was crucial as well, as the 2005 deadline for implementing the Kyoto Protocol entailed that agreement needed to be reached by the end of 2003 at the latest.

Finally, the small concessions made by the Commission, catering to sceptical member state interests, in the rush to have the final wording decided upon, along with member state confusion as to the implications of certain segments of the Directive, stored up problems for the implementation stage, as will be seen below. It was perhaps a classic example of the “Devil in the detail”.

To conclude this section, the ETS decision-making process was notable for being ideas-driven, with the Commission acting as the ideational entrepreneur, possibly also out of a desire to generate more output legitimacy (Dobson and Weale, 2003) for itself¹³, in the context of the broader need to act to comply with Kyoto commitments. Nevertheless, member states interests did play a small, but influential, role in shaping the final document, a role which was arguably deleterious, as will be seen in the two following parts of this case study. This perhaps reflects the nature of the system itself, in which the existence of so many dissenting voices can often lead to a policy, which is badly designed, and not far away from the status quo. Therefore, the historical factor was influential here as well, as the system is designed to prevent any radical policy-making, due to its numerous checks and balances.

5.3 Implementing and Evaluating the ETS

Now that the development of the ETS has been accounted for, it remains to discuss the implementation and subsequent evaluation of the policy, as this will offer clues into the use of this new market-building method in the field of environmental policy, and what this has entailed for the development of this policy sector as a whole within the EU.

5.3.1 Implementing the ETS: the National Allocation Plans

The first salient point is that the implementation of the ETS proceeded rapidly in preparation for the start-up of the scheme on January 1, 2005. It could be argued that due to these time constraints, the First Phase was somewhat damaged in its implementation. Two factors seemed to govern the implementation. The overriding principle seemed to be member state discretion, as each one was given considerable leeway in terms of grandfathering¹⁴, use of the other flexibility mechanisms, and, most crucially of all, the final decision on an absolute cap on emissions (cf Directive 2003/87/EC). The complex, technical nature of this legislation thus left a lot of work to be done for member states, but also left a lot of room for industry to lobby on minor

¹³ Cf Information and Communication Strategy for the EU, 2002.

¹⁴ In fact, only three countries reported auctioning permits – Denmark, Ireland and Hungary (PriceWaterhouse Coopers Report: 2006: 24).

technical points, which could subsequently have major repercussions. The principal clue as to how the member state interests' overrode the necessary ideational force behind the original legislation, precipitating a policy failure can be seen in the way caps were imposed from state to state (cf National Allocation Plans (NAPs) for First Phase of ETS, 2004).

Some member states have more energy-intensive industry than others, as can be seen in the percentage share of total GHG emissions that ETS covered for each state. A summary of the NAPs, along with these percentages, taken from Georgopoulou et al, (2006), will be included in the Appendix 1. But one thing that can be noted is that certain member states had more to gain or lose in terms of overall economic competitiveness, by being strict or lenient on when allocating allowances to their domestic industry. For instance, in the EU-15, the ETS shares vary from a low of 24% for France and Luxembourg, to a high of 53% for Germany and Finland (Georgopoulou, et al, 2006: 4023). Therefore, there was significant leeway and incentives built into the system to reward a "generous" approach to allowance allocation.

Furthermore, there were insufficient controls or penalties in place to control member states from going over and above the actual recorded emissions, thus not even keeping in line with the "cap" part of cap and trade. It seems that this permissive climate contributed to the member states' erring on the side of "generosity", as was revealed in a 2004 report by environmental consultancy firm Ecofys, which found that NAPs often exceeded the actual emissions of the entire industrial sector covered by the ETS, therefore granting the industries in question free 'hot air' to sell on the carbon markets (Ecofys, 2004: 6). As the report concluded about the first phase of implementation:

With some exceptions, the caps imposed on the EU ETS participants are less strict than would be required if these sectors were to make an equal contribution to meeting Kyoto targets as other sectors, such as transport or home heating (Ecofys, 2004: 6).

Therefore, it seemed that the implementation of the ETS had the unintended consequence of permitting heavy-emitting industry shirk their responsibility towards national and EU-wide attainment of the Kyoto targets.

From a theoretical perspective, what do these occurrences tell us about the organisational logics at work in this process? It seems that the lack of clear, transparent and detailed allocation guidelines opened the door for significant free riding. Therefore, member states resorted to an instrumentally rationalist logic in the absence of set rules, norms and procedures, reflecting the novelty and weak institutionalisation of the ETS. In the situation of diminished information (the actual verifiable emissions of each member state were no more than good estimates, due to the novelty of the procedure (Georgopoulou, et al, 2005)), with insufficient guarantees

that other member states would be strict in their allocations, national governments were rationally generous with their allocations to their domestic industry.

5.3.2 Evaluation

The implementation was thus a rushed, sup-optimal stage of the policy process. But what can this tell us about the pattern of policy-making? It seems that the problems with implementation might reflect what Dolowitz and Marsh called 'uninformed' and 'incomplete' transfer (see above). The former refers to the fact that the policy was transferred under conditions of insufficient information: there appeared to be some confusion over exact levels and appropriate caps to impose, as mentioned above (Georgopoulou, et al, 2005); the latter to the fact that the administrative apparatus was not the same as its blueprint model across the Atlantic. For instance, the groundbreaking ETS initiated by the US Federal Government to address the issue of SO₂ emissions was centrally developed, implemented and administered (PricewaterhouseCoopers Report, 2007: 42), therefore a single market was built from scratch in a coherent manner by a single administrator. Yet, in the EU ETS, EU-wide standards for verification were not implemented (ibid, 2007: 24). Questions remain unanswered about the appropriateness of such a market-based measure in a system of governance such as the EU, where the policy formulators in the Commission have relatively little power of oversight compared to their counterparts in the US Federal Environmental Protection Agency. There is thus considerable scope for free-riding built into the system.

Accordingly, the analytical value of the institutionalist approach is clear to be seen here. Insufficient learning, and the short timeframe for implementation, contributed to the implementation of a sub-optimal policy. Combined with this, the weak institutionalisation of the policy, with its tentative controls, left considerable scope for free-riding by member states concerned that they would be imposing too harsh a limit on their domestic industry. The legislative basis of the EU in the area of environmental policy is traditionally regulatory in nature (Sbragia, 1999), so the issue of polity is relevant here: there is arguably insufficient bureaucratic and legal capacity in the EU to administer such a system, unless the rules of the game are changed.

Now it is appropriate to refer the two empirical proofs of this outcome. The first hint as to the structural problems which beset the ETS lies in the collapse in the price of traded CO₂ in May of 2006, as the market got wind of the over-allocations, as member states were drawing up new NAPs for Phase II which is to begin in 2008 (The Economist, 2006a). As the Economist put it at the time,

Unfortunately, the numbers reflect not the scheme's success in cutting pollution, but industry's success in getting itself allocated more permits than actual emissions warranted when the scheme was launched (The Economist, May 6 2006: 83).

Carbon prices, having hit a high of 30 euros per tonne in early 2005, are, as of May 14, 2007, at a miniscule 0.33 euro per tonne (www.carbon.com). The market does not lie in relation to the level of permits allocated then.

Secondly, as full reports of actual verified emissions are being published as a part of the assessment of NAPs for Phase II (2008-2012), it is becoming clear that the markets were correct in turning away from CO₂ permits, as supply completely overtook demand. This can be seen in the Appendix section, as only four countries out of the 21 assessed so far, emitted more than what they were permitted (Austria, Ireland, Italy and Spain) and in the case of the first three, the difference was marginal. On the other hand, some member states dramatically oversupplied industry with permits. For instance, Poland allocated 239.1 megatonnes (Mt) for 2005, whereas its verified emissions for that year only came to 203.1 Mt; France allocated 156.5 Mt, and only emitted 131.3 Mt; finally, to prove that it was not only Eastern and Southern states who were being creative with the figures, Sweden allocated 22.9, whereas it only emitted 19.3 (Commission Press Release, May 4, 2007: 3). This had the effect of, as *The Economist* (2006b) says, of handing participating industries, especially power generation

wads of cash: they simply passed the extra costs on to consumers and pocketed the money. According to a report by IPA Energy Consulting, Britain's power-generation sector alone made a profit of around pounds 800m (\$1.5 billion) from the scheme in its first year (*The Economist*, Sept 9, 2006).

There is some hope for the next phase, however, as better information, combined with a more focused amending Directive (2004/101/EC) which has strengthened the Commission's hand when it comes to rejecting submitted NAPs, means that there is possibly a process of learning and socialisation going on at the current time, which in due process might lead to a more optimal policy output. Nevertheless, working from the basis of what has transpired in the First Phase, we can see that a substantive change in policy-making in the environmental sector of the EU, with the use of a market instrument to achieve emission reduction commitments, has not been matched with a procedural change in how policy-making is done in this sector, as the numerous checks and balances, and the distant relationship between formulation and implementation on the ground, has led to a sub-optimal policy output.

6. Conclusion

This paper has outlined the sequencing of different logics in the emergence of the ETS as a concrete policy output. It has demonstrated that integrating institutionalist perspectives (Olsen, 2002) is of theoretical value in coming to an understanding of this sequencing. This provides scope for further research programmes along these lines, to account for the different sequences of predominant logics in other policy areas within the EU.

It appeared that the ETS represented a crucial break in the predominantly regulatory field of environmental policy-making. However, on analysing the influence of historical factors related to the make-up the polity itself, it has been shown that the 'loose coupling' (Jachtenfuchs and Kohler-Koch, 2004: 103) between the Commission and the national implementing authorities, in keeping with the historical necessity for a certain room for manoeuvre for national governments, has led to the unintended consequence of a give-away of allowances to domestic industry, thus undermining the new policy experiment. There is the related factor that the polity is arguably not yet prepared or designed for deploying such a large-scale market-building measure as the ETS, as administrative power is not sufficiently centralised to guarantee standard implementation across the Union, in contrast to the US. This has the result that the policy transfer from one polity to the next is both 'incomplete' and 'inappropriate' (Dolowitz and Marsh, 2000). The ideational role of policy entrepreneurs such as the Commission is thus diluted somewhat by this historical factor, that is, the checks and balances which make policy-making such a multi-actor process in the EU.

Ideas play a key role in such technical policy areas as environmental policy. Substantively, the influence of epistemic communities (Haas, 1992) in setting the agenda for political action has been proven to be significant in the case of climate policy. Concerned scientists, who used their technical expertise to constitute the preferences of policymakers, in this case, drove the Commission to devise a plan of action, thus putting the issue firmly on the agenda. The influence of ideational causal factors such as these were predominant in the early stages of the process, as general problems were framed by these experts.

Procedurally, ideas were also of importance. The initial reflex of the Commission to propose a carbon tax proved to be a significant error. In light of this, and in the broader context of the Kyoto Protocol, a new instrument came to the attention of the Commission, that of emissions trading. Therefore, the idea was seeded into the European policy paradigm by the horizontal transfer of this policy from the American setting to the European setting, facilitated by the provision in Article 17 of

the Kyoto Protocol. Accordingly, a logic of action grounded in the advocacy of a new policy idea informed the formulation stage of the policy-making process.

In line with the points made about ideas above, the sheer complexity of the new policy instrument led many states to become quite muted in advocating their interests, even in the decision-making stage. In fact, it was the Commission, who had an informational advantage over member states due in main part to its 'promiscuous' (Mazey and Richardson, 2001) dealings with epistemic communities, who sought to further its institutional self-interest by appearing to be the driving force behind the scheme. However, member states advocated their own interests in some seemingly at the time small issues such as in the case of the final method of allocation, permitting considerable room for manoeuvre in the subsequent implementation phases. In this phase, the role of state interest and a rationalist behavioural logic was clear to see, as states sought to diminish the risk that domestic industry might incur over burdensome costs, which would affect its competitiveness.

In the final analysis, a broad-based institutionalist account is of utility in displaying the dynamic interaction between these different logics at different stages of the policy-making process of the ETS. It provides an insight of how a good idea can be unintentionally turned into a sub-optimal policy output, due to the novelty of such a policy in a polity which has such a multitude of actors have so many opportunities to water down the original plan, and in which the link between formulator and implementer is weak. Nevertheless, the ETS is in its relative infancy, so it represents a commencement of a collective effort of some sort to tackle the issue of climate change using the idea of the market. Accordingly, it offers rich potential for opening a new pathway of environmental policy-making in the EU.

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Appendix I

Most recent data on ETS emissions in Member States^a

Member state	Number of ETS installations ^b	ETS emissions		ETS share (% of total GHG emissions)	Date of most recent NAP used as source
		Mt CO ₂	Year		
LU	19	2.6	2002	24.2	April 2004
DE	1849	501.0	2002	49.3 ^c	May 2004
DK	362	30.9	2002	44.8	March 2004
AT	205	30.2	1998–2001	35.0	December 2004
GB	1062	276.7	2003	42.5 ^d	May 2005
BE	363	26.8 + ^e	2000–2003	47.5	June 2004
IT	1200	228.1	2000	41.4	February 2005
NL	191	81.7 ^f	2002	38.2	January 2005
FI	535	40.9	2002	53.0	August 2004
FR ^g	1172	132.4	2001	23.5	July 2004
SE	499	20.6	1998–2001	29.1	April 2004
IE	143	20.6	2002–2003	29.7	September 2004
ES	957	174.5	2002	43.8	January 2005
GR	141	71.0	2003	52.8	December 2004
PT	239	36.6	2002	42.5	May 2004
CZ	478	89.0	2000	60.3	September 2004
EE	43	12.0	2002	61.5	May 2004
HU	261	29.4	2002	36.4	October 2004
LV	95	3.7	2000	37.6 ^h	October 2004
LT	93	8.5	1998	35.7 ⁱ	December 2004
PL ^j	1166	219.8	1999–2002	57.1	August 2004
SK	209	26.7	2002	52.4	June 2004
SI	98	9.8 ^k	2002	48.9	April 2004
MT	2	2.0	2003	70.1	October 2004
CY	13	4.4	2002	60.0	October 2004
EU-25	11395	2079.9 ^l		42.7 ^m	

^aAll data on ETS installations derive from NAPs. ETS shares were calculated by using the figures on total GHG emissions per Member State presented in Table 1 unless indicated otherwise.

^bFigures are those reported in the most recent available NAP text. As the available text may not be always the final one, in some cases the figure does not include subsequent approved requests for opt-ins/opt-outs and/or additional installations that were identified after the compilation of the text.

^cThe share figure is the one calculated by using the ETS emissions figure in the NAP and the national total GHG emissions figure in EEA (2005). The share figure reported in the NAP (using an older value for national GHG emissions) is slightly higher (50.6%).

^dNAP reports an ETS share figure of 46% for 2002, but on the basis of total national CO₂ emissions (and not total GHG emissions).

^eThe ETS absolute emission figure reported in the third column does not include the Flanders region. The figure of the ETS share refers to 2005 and was calculated by the absolute figures reported in the NAP.

^fThe figures exclude the installations that were opted-out after the positive decision by the Commission.

^gFigures include also all combustion installations >20 MWth, which were added after the notification of the NAP to the Commission. The absolute number and the ETS share were calculated by elaborating relevant NAP information as they were not provided directly in the text.

^hThe ETS share figure is the one reported in the NAP. By using the ETS absolute emission figure reported in the NAP and the EEA figure on total GHG emissions from Table 1, the ETS share is 36.7%.

ⁱThe ETS share figure is the one reported in the NAP. By using the ETS absolute emission figure reported in the NAP and the EEA figure on total GHG emissions from Table 1, the ETS share is 41%.

^jThe figure includes also the 220 installations for which Poland intended to request to be opted-out.

^kExpressed in the NAP as being equal to 60% of national CO₂ emissions and thus calculated from relevant EEA data.

^lThe total is indicative, as the different figures are not reported for the same year.

^mThe overall ETS share is also indicative, and was calculated by using the absolute overall ETS emission figure presented in the third column together with the average of EEA figure for EU-24 (apart from Cyprus, for which there were no available data on total GHG emissions) and for 1998–2002.

Source: Georgopoulou et al., 2006: 4010

Appendix II

Summary information on the 21 plans assessed to date:

Approved allowances for 2005-2007, verified emissions in 2005, proposed caps for 2008-2012, approved caps for 2008-2012, additional emissions covered in 2008 to 2012 and limit on the use of credits from emission-saving projects in third countries.

<i>Member State</i>	<i>1st period cap</i>	<i>2005 verified emissions</i>	<i>Proposed cap 2008-2012</i>	<i>Cap allowed 2008-2012</i>	<i>Additional emissions in 2008-2012 ¹⁵</i>	<i>Jl/CDM limit 2008-2012 in % ¹⁶</i>
Austria	33.0	33.4	32.8	30.7	0.35	10
Belgium	62.1	55.58 ¹⁷	63.3	58.5	5.0	8.4
Czech Rep.	97.6	82.5	101.9	86.8	n.a.	10
Estonia	19	12.62	24.38	12.72	0.31	0
France	156.5	131.3	132.8	132.8	5.1	13.5
Hungary	31.3	26.0	30.7	26.9	1.43	10
Germany	499	474	482	453.1	11.0	12
Greece	74.4	71.3	75.5	69.1	n.a.	9
Ireland	22.3	22.4	22.6	21.15	n.a.	21.91
Italy	223.1	225.5	209	195.8	n.k. ¹⁸	14.99
Latvia	4.6	2.9	7.7	3.3	n.a.	5
Lithuania	12.3	6.6	16.6	8.8	0.05	8.9
Luxembourg	3.4	2.6	3.95	2.7	n.a.	10
Malta	2.9	1.98	2.96	2.1	n.a.	tbd
Netherlands	95.3	80.35	90.4	85.8	4.0	10
Poland	239.1	203.1	284.6	208.5	6.3	10
Slovakia	30.5	25.2	41.3	30.9	1.7	7
Slovenia	8.8	8.7	8.3	8.3	n.a.	15.76
Spain	174.4	182.9	152.7	152.3	6.7 ¹⁹	ca. 20
Sweden	22.9	19.3	25.2	22.8	2.0	10
UK	245.3	242.4 ²⁰	246.2	246.2	9.5	8
SUM	2057.8	1910.66²¹	2054.92	1859.27	53.44	-

Source: Emissions trading. IP/07/667

¹⁵ The figures indicated in this column comprise emissions in installations that come under the coverage of the scheme in 2008 to 2012 due to an extended scope applied by the Member State and do not include new installations entering the scheme in sectors already covered in the first trading period.

¹⁶ The Jl/CDM limit is expressed as a percentage of the member state's cap and indicates the maximum extent to which companies may surrender Jl or CDM credits instead of EU ETS allowances to cover their emissions. These credits are generated by emission-saving projects carried out in third countries under the Kyoto Protocol's project-based flexible mechanisms, known as Joint Implementation (Jl) and the Clean Development Mechanism (CDM).

¹⁷ Including installations which Belgium opted to exclude temporarily from the scheme in 2005

¹⁸ Italy has to include further installations. The amount of additional emissions is not known at this stage.

¹⁹ Additional installations and emissions of over 6 million tonnes are already included as of 2006.

²⁰ Verified emissions for 2005 do not include installations which the UK opted to exclude temporarily from the scheme in 2005 but which will be covered in 2008 to 2012 and are estimated to amount to some 30 Mt.

²¹ The sum of verified emissions for 2005 does not include installations which the UK opted to exclude temporarily from the scheme in 2005 but which will be covered in 2008 to 2012 and are estimated to amount to some 30 Mt.