

More Power to Experts? The Swedish Environmental Protection Agency, the Chemicals Inspectorate and Europeanization¹

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Abstract: This paper starts from an interest in the role played by national administrations in the EU integration process. Here, I will consider the Swedish Environmental Protection Agency and the Chemicals Inspectorate. Since Sweden became an EU member only recently, in 1995, the agencies were entrusted with the transposition of an already existing broad range of EU environmental legislation. Considerable domestic transformation has followed both in polity and policy. The process has highlighted the differences between member state administrations, differences in terms of administrative autonomy, policy style and procedures which tend to impact the policy outcome at national, regional and local levels. Simultaneously, the EU environmental policy process has opened up new spaces and created opportunities for these agencies to act on a new arena. The paper suggests that the civil servants have come to play an increasingly important role in the EU policymaking process and as a result these experts have gained considerable influence. The same process has restricted the Agencies' possibilities to act in the domestic arena as well as tend to centralize power in the hands of government and the ministries at what appears to be the expense of broad parliamentary and interest group involvement.

¹ I am greatly indebted to The Swedish Social Science Foundation (HSFR) for financing my post-doc fellowship and to the Department of Political Science at the University of Washington, Seattle for hosting me as a visiting researcher during the fall of 2000 and spring 2001. I also would like to thank all of various people who have provided me with the information necessary in various interviews over the years. Interviews conducted in 1997 and 2000 provide the foundation for my arguments in this paper together with information on the various institutions (www.environment.se; www.Kemi.se; www.environment.ministry.se) and numerous governmental reports and studies.

Introduction

Environmental ministries and agencies constitute the primary link between the European and national venues of environmental policy making. Although we know that the politics of europeanization are played out here, the precise role of domestic institutions in processes of europeanization remains yet, greatly unexplored.² The paper interprets europeanization as a two-way process through which domestic environmental actors adapt in order to cope with the demands of EU policy making while, at the same time, seeking to project their preferred approaches on the European level. Demands for europeanization of the domestic polity are created by the multi-level governance system and here more specifically, by the growing EU environmental policy. This paper will analyze how the environmental ministry, the Chemical's Inspectorate and the Swedish Environmental Protection Agency have responded to the demands on the domestic polity and to challenges to policy, incurred by being a part of the European Union. It explores how these actors have adapted their organizational structure and their interaction patterns. The europeanization process has, as I will argue, boosted the Agencies with powers not previously experienced. At the same time, the Agencies' working patterns have been radically changed and so has their role toward other actors. The same process has both centralized influence to government and the ministries and somewhat contradictory, given Agencies more influence over the EU environmental policy. I will look at the europeanization of the two agencies' through different areas where these transformations are evident. One is the formation of Swedish standpoints on various environmental issues and the role played by the Agencies in that process. Secondly, we look at the Agencies in the process of transposition or implementation of EU policy domestically. Thirdly, we look at the role played by the Agencies in their efforts at uploading Swedish environmental policies to the EU level. Before moving into these questions some general remarks will introduce the three national actors involved in EU environmental policy covered in this article.

² A main argument posed by Andrew Jordan in *National Environmental Ministries: Managers or Ciphers of European Union Environmental Policy*, unpublished manuscript

The division of labor between the Swedish institutions involved in environmental policy making:³

The implementation of the *acquis communautaire* in the Swedish context was from the onset of membership negotiations seen as largely non-controversial by Swedish policy makers and publics alike. The main concern was not whether Sweden be able to adhere to European standards, Swedish policy makers were quite confident they would, but rather, how wide the scope was for continuing relatively high environmental standards with EU membership. It was widely felt that, for the most part, similar or stricter environmental regulations had already been adopted in Sweden prior to membership. Hence, the concern was focused on how to maintain Swedish standards in a less environmentally concerned Europe. There was, from the start, a keen interest in trying to up-load Swedish policies to the EU level, notably so in the areas that had been of particular concern in the past. Long-standing preoccupations were problems of acidification, climate change but also as we will see, for somewhat different reasons, issues related to chemical use and distribution.

Environmental issues in Sweden have traditionally been the concern of chiefly two independent government Agencies: the Swedish Environmental Protection Agency (SEPA) and the Chemicals Inspectorate (ChemI), both coordinated and managed by the Ministry of Environment. According to Swedish governmental practice, a comparatively large SEPA, staffed with expertise has taken the major responsibility for implementation and administration of EU environmental policy much as it has done for national environmental policy in the past. SEPA has a longer institutional history; it was set up in 1967, than does the environmental ministry, which was created twenty years later, in 1987. A brief introduction to the institutions subject to our analysis in this paper will reveal a division of labor between the three.

The Swedish Environmental Protection Agency as its name connotes, deals with issues protecting nature and wildlife⁴, it is a classic environmental agency and

³ For a more comprehensive look at the organization of environmental issues in the Nordic countries see; Christiansen, P.M. (ed) *Governing the Environment: Politics, Policy and Organization in the Nordic Countries*, Copenhagen, Nordic Council of Ministers, 1996, and more specifically for Sweden see; Lundqvist, L.J. *The Hare and the Tortoise: Clean Air Policies in the United States and Sweden*, Ann Arbor, University of Michigan Press, 1980; 'Sweden' in M. Jänicke and H. Weidner (eds) *National Environmental Policies: A Comparative Study of Capacity Building*, Berlin, Springer 1997, as well as A. Kronsell "Environmental Policy in Sweden – Setting A Good Example," in M. S. Andersen and Duncan Liefferink (eds) *European Environmental Policy: the Pioneers*, Manchester: Manchester University Press, 1997.

concerns itself with pollution, industrial production, transportation and waste, to mention some major issue areas. SEPA has since its inception also dealt with international conventions, agreements and negotiations. It is doing so much less today, due to the need to prioritize EU-related concerns. This means a considerable involvement and as of fall 2000, approximately 80 persons out of 450 worked with EU directives in some stage or another.

ChemI is a younger institution than SEPA and was founded in 1986 in a response to the need for a comprehensive approach to the health and environmental risks of chemicals. Its 140 employees deal with all aspects of chemicals: assessment of risks, labeling, production, distribution, substitution and elimination. ChemI has a tradition of working closely with farmers' organizations, with industries but also internationally, mainly in the field of standardization cooperation. In ChemI's evaluation of its activities of 1999⁵ the conclusion is that half of the resources of the entire agency has been diverted to EU matters. In an interview of 2000 I was informed that as much as 80% of ChemI's activities were EU related. In a governmental commission report it was estimated that a total of 45 new positions were needed by 2003 in order to deal with the Swedish EU ambitions and the anticipated future EU work load.⁶

While both Agencies virtually have retained their jurisdiction over the implementation and administration of environmental policy, the range of activities have increased tremendously since membership. At the same time their involvement in other international affairs has declined. Indeed, the first civil servants assigned to EU related issues worked in the international section, which remains the organizational set-up of the Environmental Ministry but no longer in the Agencies.⁷ In ChemI virtually everyone is affected and works on EU related issues while in SEPA only the experts dealing directly with issues on the EU agenda will be drawn into the process.

⁴ This emphasis is also reflected in the Agency's Swedish name: Naturvårdsverket, a literal translation is, The Nature Conservation Agency. This is obscured in the Agency's official English name which is the Swedish Environmental Protection Agency.

⁵ *Kemikalieinspektionen, Årsredovisning, 1999.*

⁶ SOU 2001:4. *Kemikalieinspektionen-översyn av verksamhet, resurser och finansiering*, Slutbetänkande av Kemikalieutredningen, Miljödepartementet, Stockholm, Fritzes, 2001. This was slightly less than what ChemI had asked for in a request to the government. The budgetary decisions have been postponed to the fall budget.

It is also in ChemI that we see the overall most dramatic changes brought on by EU membership.

Finally, the Ministry of the Environment focuses its efforts on general and political aspects and has to represent environmental issues in relation to the government as well as coordinate between environmental and other concerns. Together with the Foreign Ministry it staffs the Swedish representation in the Council working groups. Compared to other member states' ministries, the Swedish environmental ministry is small, with its 150 employees. This is nothing specific to environmental issues but rather an effect of the Swedish historic tradition of small ministries assisted in their work by larger more autonomous agencies. As we will see the particular shape of the europeanization process in Sweden is in part due to this administrative practice, i.e. of small ministries and relatively autonomous larger Agencies.

The influence of civil servants in forming national positions

The division of labor between the Ministry of Environment and the two Agencies described above has not changed substantially as a result of EU membership. Most other member states have a larger Ministry and few give such weight to independent agencies as the Swedish administrative system does. Furthermore, in Sweden, many tasks and functions are delegated to regional councils or municipalities via the agencies and hence, the administration is also fairly decentralized. In a set of interviews which I conducted in 1997 the civil servants in SEPA and ChemI did express a concern that the Swedish public administrative tradition, with independent agencies, might come into question when facing europeanization and the divergent administrative traditions of other member states. Fearing then that the divergence would put the Agencies and Ministry under considerable pressure to adjust to Europe. The traditional administrative system seems to have remained largely intact according to a recent study by the Swedish Agency for Public Management.⁸ However, a somewhat different picture emerged from the most recent round of interviews that I conducted in November of 2000. While it was surely not considered a major problem,

⁷ I noticed this very clearly as I was arranging my interviews. While it used to be rather easy to pinpoint key people to talk to regarding EU, in for example the Environmental Protection Agency, it was much harder this time around because so many people are now involved in EU matters.

⁸ The autonomous status of agencies in relationship to the government and ministries has evolved as a praxis and is not constitutional. Statskontoret 2000:20A *Den svenska förvaltningsmodellen i Eu-arbetet*, Swedish Agency for Public Management, pp 11, 16.

many suggested that the Agencies have become much less autonomous, closer tied to and resembling a ministry. As a response to the demand for expert advice, the interaction patterns between the ministry and the agencies have changed quite considerably. When dealing with EU related matters the Agencies and the ministries have been drawn closer to one another in everyday activities and the distinct roles of the ministries' and the agencies' civil servants sometimes are unclear and often overlap. That the interaction patterns had changed was confirmed by the same report, however, it concluded that what was observed was not an entirely new disclosure. For some time closeness between SEPA and the Ministry has developed and it has only been further accentuated with the involvement in EU policy making.⁹ According to both ChemI and SEPA, such coordination between the Agencies and the Ministry, seem to work most satisfactory in the environmental area.

Science is Politicized

In assessing these changes in interaction patterns, whereby the Agencies seem to be more closely tied to the dictates of the ministry, some contradictory notions about the role of the civil servants arise. In a report, based on three extensive case studies it was concluded that the work of constructing a Swedish EU position on an issue is mainly an activity carried out by civil servants in the Agencies, with only limited involvement of the ministry and the political level.¹⁰ In my interviews I indeed found evidence of this. Power to act on behalf of the Swedish government in certain Commission affiliated groups had been formally delegated to certain civil servants, as for example in the Information Exchange Forum. In most cases such delegation seemed much more informal and ad hoc. So while an expert coming from the Agency formally functions as such, in reality, mainly due to the highly technical or scientific nature of a certain issue, the expert is formulating and representing a Swedish national position on the issue at stake. Here I get very contradictory messages. On the one hand there is a need for and extensive involvement of experts in all the stages of EU policy making and there is evidence that the experts from the Agencies have much, sometimes everything, to say about the Swedish position in relation to a particular environmental issue. This development seems to point at an increasing role for the expert, who then must be considered increasingly influential. It is particularly relevant

⁹ Statskontoret 2000:20B, Fallstudier av tre EU-intensiva politikområden, Swedish Agency for Public Management, p 26.

¹⁰ Statskontoret 2000:20B, p 130

since the tendency is that no division between what is expert knowledge and political consideration can be upheld. Technical and scientific matters are increasingly politicized.¹¹ This conclusion can be made regarding EU matters as they are worked out in both Agencies. However, it appears particularly salient for ChemI. A recent report on ChemI's activities concluded that "the work on chemicals is in practice decided by a great number of technical decisions" and goes on to stress that "policy issues are for the major part discussed in a technical-natural science type terminology" hence, it is concluded that the work on chemicals is powered by the experts from member states.¹²

A New Division of Labor

Yet at the same time, it is obvious that the Agencies have to work much closer to the Ministry than previously. Some evidence suggests that the Agencies have become keener on adhering to the Ministry's guidelines and thereby gradually losing their previously autonomous role. How can these somewhat confusing contradictory tendencies be explained? One answer that I will propose here is that there is a new division of labor resulting from europeanization. It means that yes, the Agencies have been drawn closer to the Ministry because the Ministry needs the expertise and the resources of the Agencies. At the same time, the need to formulate a clear Swedish position in the negotiation of the Council makes it momentous that the work in expert groups and in council groups is coordinated hence, a stronger political steering becomes necessary. However, priorities have to be made and a division into high and low priority issues has relevance for the role of the civil servants in the Agencies. Issues that have been prioritized by the government, for example the chemical strategy¹³ and the 6th Environmental Action Program¹⁴ tend to attract stronger engagement of the Ministry with a more zealous political steering. Here, experts might have less influence whereas regarding issues of lower priority the experts are sometimes the sole actors, or at least experience minimal steering through the

¹¹ The politicization of science, particularly in the field of environmental issues, has been analyzed extensively by studies of epistemic communities and discourse analysis in for example; Ernst Haas *When Knowledge is Power: Three Models of Change in International Organization*, University of California Press, 1990; Peter Haas, *Saving the Mediterranean: The politics of international environmental cooperation*, Columbia University Press, 1990; Karen Litfin, *Ozone Discourses: Science and Politics in Global Environmental Cooperation*, Columbia University Press, 1994;. Karin Bäckstrand, *What Can Nature Withstand? Science, Politics and Discourses in Transboundary Air Pollution Diplomacy*, Lund Political Studies, 2000.

¹² SOU 2001:4. p 176.

¹³ KOM (2001) 88 *Vitbok-Strategi för den framtida kemikaliepolitiken*, Kommissionen, Bryssel.

Ministry.¹⁵ What also is played out and is relevant for the relationship between the Agencies and the ministry, is the nature of the issues at stake. The proposition then is that what constitutes the 'new division of labor' between Agencies and Ministry, is one the degree of priority assigned to the policy at stake, and the level of technical/scientific complexity of issue. Hence, we should suspect higher involvement and hence more influence for civil servants/experts in low priority and highly technical-scientific issues.

The importance of informal interaction

The evolving interaction patterns between staff in the agencies and the ministry were characterized as informal and personal, when described. The informal nature of these forms of cooperation on EU related issue, were considered necessary, albeit problematic in the conclusion drawn from this and other recent governmental studies.¹⁶ Due to the lack of clear instructions and documentation emerging from this type of informal accords, questions of responsibility may become difficult to assess. Furthermore, relying extensively on interpersonal relations make the interactions exclusive and may restrict the possibilities for engagement in EU policy making to a few key individuals. From a democratic point of view, it is problematic. Particularly, since we note that due process of policy making with the system of referral, a part in the policy process whereby the involvement of major actors in society are assured prior to a governmental bill, is becoming more difficult to secure. In interviews I conducted, civil servants from both Agencies brought up the fact that their frequency of contacts with national interests groups had diminished, ChemI for example had much less contacts with Swedish industrial actors than prior to EU membership.¹⁷ What seems to undermine democratic accountability even further, is the weak role played by the national parliament. This was indeed, verified by parliamentary representatives in some interviews. Since parliament, in the past, have dealt with mainly domestic policy, an EU committee which would consult with the government periodically on EU related policy, was set up. The major problem with this arrangement is that the parliamentary committee is consulted only at the last steps,

¹⁴ COM (2001) 31 Communication, Brussels.

¹⁵ Statskontoret 2000: 20 *Fem år i EU: en utvärdering av statsförvaltningens medverkan i EU-samarbetet*, Swedish Agency for Public Management, pp15-17,50-54.

¹⁶ Statskontoret 2000:20A, pp 25-28.

¹⁷ The report on ChemI, (in SOU: 2001:4, pp 68,91,171-172) also attest to the weakened relationship between ChemI and industry. It is somewhat troubling as many of the requirements in chemical's legislation presupposes that industrial actors take an active part in the assessment of chemical products.

when a policy has already been in the process of EU policy making for some time. There is therefore little room to initiate, make amendments or challenge policy. Another example illustrates, albeit slightly differently, such overlapping of boundaries.

Experts and EU committees

In the practice of EU comitology¹⁸, where upcoming issues and important topics on the environment are debated, we see how politics, expertise and administration come to overlap. While working within committees, experts from SEPA as well as ChemI seem to be expected to step in and out of their expert role into a political one when need be. This happens for example in COREPER working groups, when more background information on a topic is required than what could be provided by representatives from the ministry or delegation. It is argued that without the experts the environmental attachés in the working groups have no background knowledge and little to argue and negotiate from. This overlap also occurs because the division between what is expertise and what is of a political nature is difficult, if not impossible, to uphold. Hence, issues that appear to be highly technical or clearly scientific are increasingly politicized. This is a phenomenon which may be particularly pertinent in the environmental field and even more so when it comes to chemicals. As was suggested by the investigation on ChemI: “we can conclude that the division between politics and technical knowledge is not as pronounced in chemicals as compared with other area” thus “issues of accountability are also unsure”.¹⁹ Simultaneously, it is recognized that it can be utterly problematic, if SEPA represents one opinion in the Commission expert groups and the Ministry another one in the Council working groups. The need for coordination is therefore salient, as a result, the expectations from the government on the Agencies, is to represent a Swedish position also in expert groups or whenever they are involved in pre-negotiations.

Summary

¹⁸ A significant part of EU policy-making takes place within the many different committees of the Commission and the Council. The power of these committees in the overall EU process is difficult to assess but is suggested to be significant, in for example, Van Schendelen (ed) *EU Committees as Influential Policymakers*, Ashgate, 1998.

¹⁹ SOU: 2001:4 p 99, my translation.

Thus, we can conclude that one important change in polity, emerging as an effect of europeanization, the Ministry and the Agencies have become more dependent on one another and thereby drawn closer together. This occurs, as calls for coordination become more frequent. On the domestic level this has made the relationships between the ministry and agencies, tighter, closer and more personal. Something which has been accentuated by the fact that the previously conspicuous division of roles between political and administrative representatives has become less clear. Europeanization then, may endanger transparency of the policy process to public scrutiny and democratic control. Such development, while perhaps increasing efficiency, could obscure issues of responsibility to and authority of decisions while interest group involvement also may be curtailed. At the same time a certain new division of labor has emerged, whereby some prioritized issues are subject to stronger political control and the less prioritized ones are left to the discretion of civil servants and experts. Largely due to the role of knowledge in environmental policy making some interesting developments have evolved here. Experts may dominate in issues that are highly technical and scientific, and since there is no easy division of what is political or technical, there is considerable expert influence. Again, the field of chemicals may be the area where this development is most profound. It was articulated as “far from the process envisioned in the Treaties”.²⁰

Civil servants in the implementation of EU legislation

Sweden more often than not, has stricter, more advanced or at least, already similar environmental standards in domestic legislation as compared to EU environmental standards. Due to the Swedish Administrative system, SEPA has taken a major role in transposing EU legislation to national norms. In doing so SEPA has been occupied tracing the equivalent norms in national legislation and investigating whether the existing norms have to be modified in some way or another to be considered adequately transposed. Due to this type of largely legalistic work, one of the most visible institutional changes which has taken place within SEPA is that it has had to acquire more legal experts and set up a legal unit. Such evolution is mainly due to divergence between Swedish and EU legal traditions. In Swedish policy making, legislation is normally of a more general, framework kind. Swedish policy making

²⁰ SOU: 2001:4 p 176, my translation.

leaves considerable room for interpretation and leaves the jurisdiction to set more specific standards and regulations in the hands of the Agencies. The ensuing possibility for interpretation connotes a degree of flexibility, so central to the policy tradition of cooperation and consensus.²¹ The implication of this policy tradition has meant a long preference for the involvement of polluters and local authorities in environmental policy making, with necessary compromises and exemptions, rather than a command style policy approach. For example, when it comes to assessing the risks and handling of chemicals, the legislative framework has in the past left much of the responsibility to the producers and importers. Although part of the tradition of cooperation-consensus framework legislation, some drawbacks in that policy style can be noted in specific cases.

Framework vs specific legislation

The Agencies' interpretive role in framework legislation has been important also in the decentralization process. An Agency thereby can and often does, further delegate to local or regional authorities. As the Agencies, in large part due to EU membership, are faced with a more extensive workload and dwindling resources, the policy-making role of regional and local authorities increases. Due to the nature of a more specific, detailed and legalistic regulation of the EU the transposition has in many cases required to be equally detailed and specific. To a certain extent the resulting domestic level rules have changed both in style and content. Among policy makers the reluctance to make these adjustments is pronounced. Not least at SEPA, where many exhibit frustrations with having to adhere to a policy tradition that they feel is inefficient and outdated. Many feel it is a cumbersome and in some cases unproductive way of making policy. One example cited is in the field of insecticides where previously there was one relatively simple piece of national regulation which now has been replaced by two long and complicated regulations, one on plant protection products and the other on biocides, these very detailed directives are transposed directly into national legislation.²²

²¹ For a more detailed discussion of the style of Swedish environmental policy making see; A. Kronsell "Environmental Policy in Sweden – Setting A Good Example," in M. S. Andersen and Duncan Liefferink (eds) *European Environmental Policy: the Pioneers*, Manchester: Manchester University Press, 1997.

²² SOU: 2001:4 p 198.

On the other hand, there are cases where transposition also has exposed flaws in the Swedish policy tradition because of the need to be specific and precise, rather than being able to make exemption and adapt to circumstances of a specific location or the 'need' of a particular industry. So while it seems easier to set high goals in a framework policy, since there is room for interpretation when specifics are to be articulated at lower levels of governance, EU membership has at times, made it necessary to make this type of legislation more specific. A voice in ChemI expressed it in the following way: "the same policy is there but it has become radicalized because what we could previously express in loose, vague terms we now must express precisely". This was a particularly important move in order that ChemI would acquire trust among the other member states.

Decentralization and compliance

Although the compliance records for Sweden remain high some problems of implementation and control remain.²³ This has been shown particularly as regards the alleged responsibility of the municipalities. It is considered an effect related to extensive decentralization and has caught both the Commission's attention²⁴ and has initiated some legislative changes as far as division of responsibility between the municipalities and ChemI in the control of chemical production, import and use.²⁵

Some notable findings regarding transposition came out of a government report²⁶ and concluded, somewhat surprisingly, that there was a certain tendency to over-interpret EU legislation in the Agencies. When policies were transposed, restrictions and limitations were set which went further and/or were more extensive, than sanctioned in the EU directive or directly motivated by national legislation. This may be problematic and may lead to policies that divert from what has been agreed upon through negotiations in the Council of Ministers, approved in the national legislature or the national government. It becomes instead, basically a result of an expert or administrative opinion.

The impact of different types of directives on the Agencies

²³ Jonas Tallberg, in Karl-Magnus Johansson (red) *Sverige i EU*, Stockholm, SNS, 1999.

²⁴ DG(SANCO)/1189/2000-MR Draft report of a mission carried out in Sweden from 18 september to 22 september 2000 in the field of control systems for the placing on the market and uses of plant protection products and for residues in food stuffs of plant origin.

²⁵ SOU: 2001:4 pp 69-76, 210.

Although, both SEPA and ChemI are deeply involved in the transposition of EU directive into Swedish legislation and administrative practice in the areas of their jurisdiction, their circumstances differ considerably. Earlier it was referred to the division of labor between ChemI and SEPA based on the environmental areas in which they have responsibilities, another such division can be made based on the kind of EU directives which they mainly are concerned with. This might also be the most relevant type of division if we are to analyze europeanization. It is clear that the work of SEPA as compared with ChemI has been highly structured by the kind of directives that affect their different activities. SEPA mainly deals with minimum directives while the ChemI deals exclusively with standardization directives.²⁷ It is a crucial factor because due to this, EU membership has completely transformed the role of ChemI, in the tasks it performs but also, in the role it plays vis-a-vis other actors. While prior to membership most of ChemI's activities were geared toward studying the effects of certain substances and their risks, now major work is done in negotiations and legal implementation of directives, and that has, radically reformed ChemI as an Agency.

Chemical policy in the EU is connected to freedom of trade policy and the harmonization of the market. It implies that equivalent standards must apply for all member states. Sweden has one of the most restrictive chemicals' policies in all of Europe and the use of certain chemicals, was banned or severely restricted in Sweden while allowed in other member states. Swedish representatives therefore applied and obtained temporary exemptions on certain chemicals during the membership negotiations. The exemptions lasted four years. The main work of ChemI has thus, had to do with trying to convince, argue and persuade others in the EU to adopt stricter chemical standards. For example, ChemI has lobbied extensively, both against the Commission and bilaterally, for a common EU chemical strategy and to raise standards throughout Europe in order that equal or similar standards to Swedish

²⁶ Statskontoret 2000:20A, p 63.

²⁷ Minimum directives mainly affect the activities carried out by SEPA. Minimum directive means that Swedish environmental policy must reflect the minimum requirement as issued in the EU directives. Each country can choose the means that it will employ to reach the commitment and is allowed to go further, i.e. for example impose stricter standards than what is called for in the directive. Standardization directives aims to harmonize the common market. It means that each member state has to enforce the same standards. There are thus, no possibilities except with the environmental guarantee, to enforce different standards than the others. Chemicals are products subject to the rules of the common market. Hence, in case there is no EU level policy, a product approved in one member state is automatically also approved in another.

chemicals' regulation would apply in all EU member states. Due to this, ChemI has become, at best, an 'activist' and engaged participant in EU negotiations, or at worst, a fierce defender of national chemical legislation. As a consequence, the demands on the skills of the civil servants in ChemI, have altered considerably, from employing expert knowledge as a way to inform and monitor national industry and agriculture, to using that expertise in negotiation, persuasion and much more assertive lobbying techniques in the EU's various committees. Whenever Sweden is not successful there is a risk that previously banned chemicals have to be allowed and re-introduced on the Swedish market. An example here is the biocide 2,4-D, banned in Sweden already in 1991. Import can no longer be restricted because it is allowed in the other member states. A voice in ChemI says, "it is an absurd situation because now we have to re-educate the farmers on how to use a biocide product which we don't want to permit."

In concluding, we note that due to the difference in type of directives, EU legislation has had substantially different effects on SEPA and ChemI. While SEPA have carried on largely with its normal tasks, albeit, having to deal with another level of policy making and another type of policy tradition. ChemI has been radically transformed by the need to defend what has been achieved in national chemicals' legislation. Basically, the only way to retain those standards is by successfully 'upload' them to the EU level. ChemI's range of tasks have as a result, expanded considerably, to include negotiation, lobbying, and legal legislative tasks.

Summary

So far we have analyzed SEPA, ChemI and Europeanization in terms of national impact. We have been concerned about the phenomena characterized by Börzel and Risse as what happens 'when Europe hits home'²⁸ and addressed the adaptive processes of the Agencies to EU policy dynamics in the environmental field. According to Ladrech, europeanization is a fact when these dynamics have become a part of the organizational logic of the institutions²⁹. That this has occurred for Swedish environmental politics and administration should by now, be beyond doubt. However, as we have seen, the extent of adaptation varies depending on whether we study SEPA or ChemI. The conclusion is that ChemI has been radically transformed while

²⁸ T. Börzel and T. Risse 'When Europe Hits Home: Europeanization and Domestic Change', *European integration online papers*, vol 4, no 15, eiop.or.at/eiop/texte/2000-015.htm, 2000.

SEPA adaptation process has been more limited. We can also note that the influence of actors in the environmental field has shifted and the experts have appropriated considerable power over setting priorities for environmental issues. If we consider europeanization as not solely concerned with how EU affects domestic policy, but rather as a two-way process, as I argue we should, it is easier to see how domestic transformations are part of a larger process of European integration. As members of the EU, a broad range of domestic actors are able to engage in and influence policy on a new arena. The nature of those interactions as well as the policy process, create certain conditions which may fundamentally transform also processes of domestic policy making and implementation. Hence, let us consider also the other side of europeanization and the role of the Agencies in uploading values and norms to the EU level.

'Uploading' Swedish environmental policy to the EU level:

civil servant 'activism'

Before proceeding, it seems essential to establish some notion of what type of governance form EU is. I will suggest here that one fruitful approach is to consider EU in terms of new governance³⁰ by which EU policy-making can be understood as an integrated system of multi-level negotiations and bargaining.³¹ A key characteristic is that governance is more likely to take place in networks, where relations between different individual actors are important.³² An important difference to any national system, which also accounts for the uniqueness of EU, is that there is not one central authority, only multiple sites where influence can potentially be asserted.

In international relations, it is often argued that important power bases are such things as a country's size, its population, natural resources, military or economic status. This ought to apply to the EU as well, and give certain countries more esteem and legitimacy simply due to their size and resource base regardless of issue area. While it

²⁹ Ladrech 'Europeanization of domestic politics and institutions: the case of France', *Journal of Common Market Studies* vol 32, no 1, 1994, p 69.

³⁰ Kohler-Koch, Beate 'Catching up with change: the transformation of governance in the European Union' *Journal of European Public Policy*, vol 3, no 3, 1996, pp 359-380.

³¹ Grande, Edgar 'The state and interest groups in a framework of multi-level decision-making: the case of the European Union' *Journal of European Public Policy*, vol 3, no 3, 1996, pp 325f.

³² Kohler-Koch, Beate "The Evolution and Transformation of European Governance" in Kohler-Koch, B & Eising, R (eds) *The Transformation of Governance in the European Union*, Routledge. 1999, p 25; Jönsson, Christer, Ole Elgström and Maria Strömviik 'Negotiations in Networks in the European Union', *International Negotiation*, vol 3, no 3, 1998.

is always important and interesting whether one of the bigger member states is likely to support or block an initiative –considered a pusher or a laggard– it might be less important how one of the smaller states intend to act. Nevertheless, in the EU it is not the only way to make an impact. Because many agreements are made in everyday negotiations carried out throughout the EU institutions, a major part of the work is done in rather mundane meetings between people who are representing what often is but a vague notion of a national interest. Hence, important influence could be exerted by individuals who are engaged in such negotiations and this is also where we indeed, witness an extensive involvement of experts. An interesting question arises: what constitutes power in the type of multi-level arrangement sketched out above?

Reputation as a 'fore-runner', an important resource

For one it appears as if reputation and previous relations can become important resources for small states in such EU negotiations. Swedish policy makers concerned with issues related to the environmental field have been very active in international negotiations, cooperation and organizations and hence, enjoy a reputation as 'activist' or 'fore-runner' on these issues. Such previous involvement becomes a resource because it gives Swedish representatives and experts alike, a certain legitimacy to act on those matters. The connection between expertise, legitimacy and influence is illustrated by the following quotes from a recent study of ChemI: Many of the interviewed in connection with that study "point to the fact that ChemI is perceived as having highly reliable expert knowledge and a high legitimacy internationally and within the EU." One policy maker is quoted as saying: "This means that we have won acceptance for more than what is motivated for a country the size of Sweden. Sweden and ChemI have a solid reputation internationally..."³³ Even though these quotes and the study focus on ChemI, similar views have been expressed as regard to the EU work of SEPA. While international reputation as an environmental forerunner, might benefit Swedish representatives with particular power resources wherever they find themselves in the multi-levels of EU, it may be limited to a new member. As negotiation and network relationships develop within the EU, it is likely that intra-EU experiences will overshadow pre-EU relations. Thus, it might be more of a general interest to look at the role that knowledge, facts and expertise have come to play in EU environmental relations.

³³ SOU 2001:4, p 58.

Knowledge and expertise as a source of influence

A constantly expanding field of policy creates the need for expertise in the EU. It is accentuated by the fact, that what we broadly refer to as environmental issues, turn out to be highly complicated issues demanding the input of technical expertise and scientific experts. This can be illustrated by the triumphant exclaim of, Anna Lindh, the former environmental minister, when commenting on the success of including producer responsibility in the auto/oil directive: “we have been pushing hard and stubbornly for standards according to a Swedish model. Although there was ample resistance, *facts* won in the long run.” She goes on and repeats: “the small countries won with *facts*”.³⁴ I have heard similar claims time and time again, ever since I started to work in the field of EU environmental politics in the early 1990s and have elsewhere argued³⁵ that scientific knowledge has been particularly important for a growing environmental awareness in the polity. Scientific ‘facts’, I suggest, have had an important standing and at times been absolutely crucial to the introduction of new environmental policy in the EU. The Swedish policy makers have a foundation with a broad national expertise and a more extensive experience with various environmental measures than many other member states. Not surprisingly, the acidification strategy,³⁶ an initiative which originated from Sweden was the outcome of both the long experience internationally and the development of a strong competence and extensive expertise on the issue of acidification. While some areas, such as the acidification strategy³⁷ has a more general framework character and proposes guidelines and strategies, most of the directives suggested in response to the acidification strategy have to do with, for example, the limitation of exhaust in various vehicle types. Expertise, who can provide facts about exhaust processes, know the most updated techniques, the costs incurred by different alternatives and can cite experiences of that technique, become extremely valuable resources in such context. One specific example here is in the assessment of biocides, where only Sweden and seven other member states have any experience at all since the other countries completely lack legislation in the field. In such a context the potential for influential is high, simply because policy makers can draw on national experiences.³⁸

³⁴ Pressrelease, Ministry of Environment, 19970623, my translation.

³⁵ Annica Kronsell (1997b) *Greening the EU: Power Practices, Resistances and Agenda Setting*, Lund University Press, pp 50-57.

³⁶ COM (97) 88. Read more in Katarina Molin and Rüdiger Wurzel, “Swedish Environmental Policy” in Lee Miles (ed) *Sweden and the European Union Evaluated*, Continuum, 2000, p 175-177.

³⁷ Designed to deal with the pollutants that cause acid rain, mainly sulfur emissions

³⁸ SOU: 2001:4, p 201.

National experts in the Commission

The importance of expertise might be particularly pertinent in the EU because the Commission, despite its role as an initiator of proposals, possesses only limited resources and thus often relies on expertise outside the EU institutions. The appointment of national experts who, for a limited time, work in the Commission is an important resource for the Commission. At the same time, it gives member states an opportunity to appoint certain experts to work on topics which they are concerned about and want to push for. In the case of the EU acidification strategy, the Swedish government already in 1995 had appointed a national expert, later two, who were to work on the acidification strategy of the EU. Both experts came from the Secretariat for Acidification, an organization based in Gothenburg with extensive involvement, high standing and ample international experience in the field of acid rain. The ministry has also recognized the importance of national experts. When a person in the ministry was asked to comment on this, in an interview of 1997, he highlighted the importance of a national expert in the field of chemicals and said: “when it concerns chemicals policy we have thought it important to have a national expert in DG III, this expert is now permanently employed there. Our ambition is also to get a Swedish head of unit (Chemicals) in the Commission.” Although it was an ambition, today there is a Swedish woman who heads the unit on Chemicals in DG XI. The placement of key individuals in the EU institutions is not only about making sure the expertise and knowledge on a topic becomes known to the Commission and the member states. It is also a consequence of the network relations of the EU multi-governance structure whereby it is necessary to build inter-personal relations between a set of key individuals in an issue area. The appointment of Margot Wallström as Commissioner in charge of environmental affairs must be seen as a significant possibility in that respect.

We can hence, conclude that facts from scientific sources or from experience made with policies or particular technologies may be an important resource in trying to make an impact in setting the EU agenda. Such knowledge can be put to use in the actual negotiation, serve as a legitimating force or as a resource for Commission work. The importance of expert knowledge might be particularly fitting for environmental politics due to the way these issues are closely related to scientific discoveries about what chemicals and pollutants do to our bodies and to nature, and

technical innovations about what can reverse or compensate for environmental degradation. Only further comparative research can tell us whether this is relevant also for other sectors of policy making.

The role of national examples

Another way to influence EU policy would be to try to 'up-load' national policy to the EU level. The attempts and efforts to revision the chemicals' policy and the push for a community chemical strategy, possibly including an EU Chemical's Inspectorate facility, seem to be an attempt at this. Although it is really nothing out of the ordinary. Many policies in the EU actually have an origin in national policies. While it is probably rare that national policies are actually copied, they are, in a moderated form, an important contribution to EU policy. The Commission often glances at national policies when preparing proposals. This was most definitively the case with the Fifth Environmental Action Plan, which had as its origin and major inspirational source the Dutch Environmental Action Plan.³⁹ Two civil servants in SEPA argued that the Swedish national environmental policy partly inspired the IPPC directive, even though at that time, Sweden was not yet an EU member. More commonly, and also difficult to trace, is the adoption of parts of member state legislation in a Commission proposal.

Various national studies on topics related to environmental policy making may serve as important background expertise not only to influence actual negotiations and help persuade adversaries, but may also form an important input or contribution to EU strategies and policies.⁴⁰ A national project carried out by SEPA on traffic and environment during 1995-96 (MATS) served as an example and came to initiate a similar European project that is to provide background information and suggestions to the Commission. We can note that the various Swedish governmental studies on environmental policies, for example the extensive work on chemical policy, have provided an input to the work in DG XI Environment. However, since such studies are generally written in Swedish there are limitations on their applicability and usefulness outside the national context and the Swedish representatives in the

³⁹ Kronsell, Annica "A 'sustainable' impact on the EU? An analysis of the making of the Fifth Environmental Action Programme" in Stephen Young (ed) *The Emergence of Ecological Modernisation: Integrating the environment with the economy?* Routledge, 2000.

Commission. It is notable that the Dutch Environmental Action Plan was published in English. Another voice in the ministry expresses the need for such studies, in the following way (1997): “Expert knowledge is important, it is crucial to have information and knowledge, and there we have a lot of experience in SEPA. It is great that there are substantial studies with English summaries that we can rely on.” It is clear that these studies, their suggested strategies and the expertise in the Agencies generate important facts, experiences and accounts that can successfully be drawn upon both in the agenda setting phase in the Commission and as policies are debated, contested and decided upon in the various EU institutions.

Benefits of ‘smallness’

We have shown here how experts are gaining increasing influence as most of the groundwork on Commission proposals is carried out in committees. Although there is a division of labor between the agencies and the ministry, the representatives from the agencies attend the working groups of the Commission and provide expertise while the representatives of the ministry attend the Council working groups, they pay careful attention to national interests in practice. There is no clear division of what is political and what is expert knowledge, what appears as a highly technical question is often laced with political considerations. Hence, it has become increasingly evident that this division can not really be strictly maintained. Having noted this, i.e. that there is no clear dividing line between what is expertise and political considerations, the governmental report nevertheless concludes that it is very rare that Swedish representatives, whether they are in expert committees or council groups, exhibit different views.⁴¹ It seems as if experts and governmental representatives have a common understanding of what the Swedish interest might be in a particular question, no matter how technical.⁴² The report argues that this is due to the way that the ministry and the agency personnel relate to one another. They have close, informal and frequent contacts, which makes coordination not only possible but also easy. For one, the Swedish government is small, and the ministries need to work closely with the administrative agencies. In turn this creates a tightly knit network of actors familiar with each other. Second, there is a significant amount of interchange between

⁴⁰ An indication that there is such a strategical consideration is given in SOU 2001:4 where it says that proposals issued in a previous study (Varor utan Faror SOU 2000:53) was written as a direct input to the EU greenbook on products.

⁴¹ Statskontoret 2000:20B, p 127f.

⁴² It was also confirmed in my interviews of November 2000.

the ministry and the agencies as regards to job positions. To illustrate, it is common that a civil servant from the Environmental Protection Agency takes on a position with the Ministry of Environment and after a few years move on to the permanent representation and a position as an environmental attaché, only to return to the Agency again after a few years. Thirdly, it is also argued that the experience of international environmental relations much prior to EU membership has contributed to this pattern of working.⁴³

We can thus conclude that, in the multi-level governance system of the EU, small states may be better equipped to coordinate a national position because of their smaller and closer knit polity. Even when questions arise that are highly technical but yet, laced with political interests and complications, it seemed from my interviews that there was actually little difficulty in establishing a 'Swedish interest'. Either this was, as they told me at the Environmental Protection Agency, because everyone already knew what was in the Swedish interest, which seems to suggest a common understanding or similar values within the close community of policy makers, or they would simply pick up the phone and talk to the one politically responsible for the issue. Hence, because small states also have a smaller administration and governmental apparatus, they may also be more efficient in coordinating the various representatives who are dealing with an issue in different venues of the EU. However, as has been argued earlier, this transformation of bringing experts and governmental representatives in closer and more informal relationships may have a detrimental effect on the transparency of the policy process. It may lead to lax democratic control and undermine the possibilities to hold someone accountable for concessions made and decisions taken.

Conclusions

Europeanization goes both ways, and has to do both with complex processes of transposition and implementation as well as the articulation of national preferences, and proposals in the EU context. How this process is shaped and the obstacles and possibilities that arise from a process of europeanization is highly dependent on the nature of the political and administrative system of the member state. Certainly this was shown to be the case when analyzing the field of environmental issues. The

⁴³ Statskontoret 2000:20B, p 6-7.

important role of experts and the significance of the type of EU legislation that is to be transposed in the member states, are two factors somewhat neglected to date in the literature on europeanization. Yet, they have been shown to be crucial in the changing circumstances of the Agencies and the environmental ministries.

Environmental issues may very well be an exception as far as the important role that experts play in the policy process, or alternatively, as environmental concerns develop they become increasingly technical or scientific in nature and due to this demand larger input of experts. Or yet a different interpretation could be that the character of the Swedish political and administrative system lends itself to this development where we see an increasing involvement of civil servants and experts in issues of a political nature. A main concern, which needs to be addressed further, is what happens to democratic accountability. The role of expertise, knowledge and domestic experiences was shown to be considerable when addressing the other dimension of europeanization. The study pointed to how important these resources were for possibilities of influencing EU policy making. Particularly, the role of the Agencies in that context was highlighted. It was suggested that the use of expertise, knowledge and experience was an important power base for a smaller country and hence, could be considered momentous for a small state's possibilities to shape EU politics. A member state, successful in uploading domestic policy to the EU, may be awarded twofold. For one, it is able to influence EU norms and secondly, it can avoid later complications in the transposition and implementation of EU directives. It is clear that the role of ChemI and SEPA differ accounted for by the fact that ChemI is implicated in a process where so much more is at stake. The way chemicals are approached in the EU basically endangers all domestic progress to date. Progress made in efforts to regulate the production, import and use of chemicals. ChemI's activist role is an outcome of the urgent need to upload Swedish Chemicals legislation in the EU. It is the only way to maintain what has been achieved domestically. In comparison, SEPA's situation is much different because domestic achievements are not threatened by EU policy making because directives mainly set minimum standards. Yet, SEPA makes an important contribution with input of policy examples, expertise and knowledge.