

**The Actual Agenda-Setting Abilities  
of the European Parliament:  
The Imprint of the EP on European Union Environmental Policy**

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The European Parliament has only recently—and grudgingly—been deemed by analysts to possess any real influence on European policymaking. The EP started with no supranational characteristics and very few of the usual powers and prerogatives of a parliament. In fact, for thirty-five years, this body was not even designated officially as a “parliament.” It was known instead as the Common Assembly. As a result of its minimal powers, the EP was long the European institution that received the least notice and the least respect.

This is no longer the case. A series of hard-won new powers granted to the EP by the Single European Act, the Treaty on European Union, and the Amsterdam Treaty has transformed the power dynamics among the European Union’s institutions. Most observers agree that the EP now plays a more muscular role in Community policymaking. At the same time, the vast growth in the number and scope of Community policy responsibilities has resulted in increased pressure for transparent decisionmaking processes and expanded democratic accountability. As the only directly-elected Community institution, the EP has been well-placed to benefit from these pressures. These two factors have worked together to contribute to a reassessment of the influence and importance of the European Parliament.

Two incidents more than twenty years apart highlight the extent that perceptions of the EP’s influence have changed. In 1973 French President Georges Pompidou was asked to comment on various proposals for strengthening the institutions of the European Community. He responded with a negative appraisal of the chances for further supranational integration of any

sort. Pompidou believed that a true European-level executive could never be created and that it therefore followed that: “so long as there is no real European executive, there can be no real European Parliament.” With this he dismissed the importance and influence of the Common Assembly (not a “real” Parliament) and the chance of its gaining additional powers.<sup>1</sup> Few then disagreed with his assessment.

In early 1995, however, Environment Commissioner-designate Ritt Bjerregaard of Denmark endured an especially rigorous and confrontational “confirmation” hearing before the EP Environment Committee. This was the first time an incoming slate of Commissioners required parliamentary approval before investiture. Six days after her ordeal she told a Danish reporter that the experience was unimportant because, after all, the European Parliament is not a *real* parliament.

For several days it appeared that the EP might vote to reject all twenty Commission nominees unless Ms. Bjerregaard was replaced. Jacques Santer, the Member-State’s choice to succeed Jacques Delors as the Commission President, had to meet three times privately with Bjerregaard before he could convince her to apologize to the Parliament. He also hastened to assure the EP on numerous occasions that he and the other new Commissioners had the greatest respect for the Parliament.<sup>2</sup> Parliament was mollified and approved—if only by a narrow margin—the seating of the new Commission.

But these Commissioners were not destined to serve out their full terms. Earlier this year, President Santer and the other 19 commissioners resigned *en*

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<sup>1</sup> Quoted in Scalingi, *The European Parliament*, pp. 130-131.

<sup>2</sup> “Bjerregaard Makes Disastrous Debut As EU Environment Commissioner,” *Environment Watch Western Europe* 4 (20 January 1995): pp. 1-3. It is altogether appropriate that the EP threatened to exercise its new powers because of an appointment it did not like in the policy area of the environment—a cause which has always been near the top of the Parliament’s priorities.

*masse*. This stunning development came about almost entirely because of actions taken against the Commission by the EP.

What happened between 1973 and 1995? How did these changes occur? The debate over the exegesis of the EP's increased powers and influence are often subsumed within the larger controversy over how, why, and to what extent EU power has grown. This in turn is part of the venerable ongoing argument between proponents of intergovernmental or realist and supranational or integrationist explanations for European institutional development. The former group contends that these changes are the result of member state decisions during the mid-1980s to start the process of integration anew. According to this interpretation, the EP had no power prior to passage of the SEA, was granted enhanced influence only by the actions of the member states, and continues to possess power only by their sufferance.

This paper offers evidence to support the arguments of the integrationists. I argue that the EP has exerted more influence on policy than is generally recognized—even prior to passage of the treaty amendments of the 1980s and 1990s. The EP also used its original meager powers to gain both incremental increases in power and to persuade the member states of the necessity for major constitutional changes.

One legal writer has observed that:

Power is rarely, if ever, given up to democratic institutions; it more often has to be seized. The growth in the powers of the [European] Parliament has resulted from its willingness to do so when an opportunity has presented itself.<sup>3</sup>

This has been a major task of the European Parliament since its inception. It has had to fight to realize even the minimal rights granted it in the Treaty of Rome. It took more than twenty years, for example, before member

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<sup>3</sup> Stanley Crossick, "The New Parliament: Policies, Priorities and Personalities," New Law Journal 139 (October 6, 1989): p. 1345.

states allowed direct elections to be held for EP seats, in spite of the fact that the Treaty called for this to occur. The EP has also stretched existing powers to their breaking-point, invented others, and litigated before the Court of Justice to win additional rights and prerogatives that are generally considered to be basic components of a legislature's duties<sup>4</sup>. I contend that the EP has had great success with this strategy.

EP influence over European policy has thus been underestimated systematically. Two broad analytical errors are responsible for these misassessments. First, most observers fail to operationalize the concepts of "power" or "influence" in any manner—or, they apply these concepts to only a single aspect of a legislature's work: that of legislating. But parliaments perform many tasks and possess several means for affecting policy outcomes. I examine various facets of parliamentary power and influence: legislating, agenda-setting, budget allocations, and oversight and enforcement. When analysts conflate these aspects they often lose sight of important developments and trends.

Second, parliamentary influence varies across issue areas and over time. This is partly the result of treaty-based or constitutional restrictions on powers and purview, but also reflects the changing priorities and interests of parliamentarians. All parliaments also possess limited political capital, resources, and energy. For much of its history, the EP had to work with more limitations than most national parliaments. This paper examines the EP's twenty-seven year involvement in environmental issues.

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<sup>4</sup> This constant battle for respect, influence and power is even evident in the title of a retrospective of the record of the first directly-elected Parliament: "Five Years Spent Striving For Power: Review of the European Parliament 1979-84" by George Clark that appeared as a chapter in The Times Guide to the European Parliament 1984, (London: Times Books, Ltd., 1984).

### The EP Strategy for Influencing EU Environmental Policy

The European Parliament was a strong and early advocate for increased Community involvement in environmental protection. Until the mid-1980s, however, legislative relations between the Parliament and the other Community institutions were governed by the "consultation procedure." The Council and the Commission were required to consult with the EP regarding proposed legislation before it could be passed into law. Neither institution was under any formal legal obligation to pay heed to Parliament's views.

Parliament's legislative function was therefore nearly nonexistent. In spite of the fact that it possessed no formal powers to determine the content of Community measures whatsoever—the EP was remarkably successful both at using its limited influence to best effect and at finding and using policy "fingerholds" to promote its preferences when given even the slightest opening.

This was accomplished most effectively through attempts to focus attention on certain problems and preferred solutions—in other words, the EP strove constantly to set the policy agenda for the Community. It attempted to do so by several different means. The most important and visible of these was through the EP's ability to pass resolutions. These resolutions were so numerous that they sometimes inspired ridicule. One observer wrote, for example, that "the Parliament agonizes sometimes for hours over whether to use the term *deplore* or *regret* in one of its countless resolutions."<sup>5</sup> But these resolutions sometimes had an impact on the formulation of policy. Nowhere was this more true than in the area of environmental policy.

But the EP was not limited to passage of non-binding resolutions. It also invented a power to research an issue, prescribe remedies, and disseminate the

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<sup>5</sup> Scalingi, The European Parliament, p. 160.

findings in what came to be known as “own-initiative reports.” These policy proposals sometimes had a great impact on eventual community policy—even though they trampled upon the Commission’s sole right to initiate legislation.

The European Parliament has also used various devices to both prod the Community into action and to shine a spotlight on enforcement problems. This oversight role has been propounded by three different techniques. The Treaties gave the EP the right to submit oral and written questions to the Commission. This right has been expanded skillfully so that the Commission is now nearly accountable to Parliament. Two other powers were developed by the EP through usage and precedent—the power to accept citizen petitions (and thus enhance the democratic stature of parliamentary demands) and the right to empanel committees of inquiry (later formalized in the Maastricht Treaty).

Finally, the EP used its budget powers to increase Community involvement in environmental matters. The nature of EP powers in this area meant that it had to choose which policies it would prioritize. Environmental policy is therefore one of the only policy areas that benefited from parliamentary largesse—and is not representative of overall EP budgetary influence. It remains an excellent example of the potential power of the EP. We will now examine each of these aspects of parliamentary power and how the EP utilized them to change Community environmental policy.

### **What is Agenda-Setting and Why is it Important?**

Before I relate instances where the EP has helped set the Community environmental agenda, it is important that we understand the nature of agenda-setting. What is agenda-setting and how important is it to the legislative process? Peters provides a helpful discussion of these questions and relates some common-sensical reminders that agenda-setting is much more than simply

succeeding in getting an issue tabled and adopted.<sup>6</sup> He points out that getting an issue considered at all (especially new issues) is not easy. Merely managing to get a full hearing on an issue can sometimes constitute a major achievement in and of itself. Furthermore, the manner and speed with which items and prospective solutions gain consideration and/or are passed into law can vary enormously. Sometimes, either because an item is uncontroversial, unimportant, or (the exact opposite) a matter of urgency—it can be placed on the agenda and win passage quite quickly. Other issues must be examined and contested over longer periods of time because they conflict with existing practices or norms, impact important economic interests, or are generally more controversial.

These latter types of issues must gain full consideration (if ever) through an incremental process of what Peters terms “agenda accretion.”<sup>7</sup> This is necessary because initial objections must be overcome. Public opinion must be won over, elite perceptions and priorities must be changed, and new issue coalitions must be constructed. The task is rarely easy and often not successful. Successful cases usually entail a slow gradual movement of initial policy preferences evidenced by passage of a succession of half-measures.

Because the Commission possesses a formal legal monopoly on the power to initiate proposals, it has had a huge influence on the shape of eventual legislation on the environment. Formal legislative proposals are one important aspect of agenda-setting but they often tend to come nearer to the end of the legislative pipeline. The Commission has another important role to play however—that of mediator. It is sometimes loath to promote policies that may upset important interests or member states—especially if this endangers other

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<sup>6</sup> Guy Peters, “Agenda-Setting in the European Union,” in *European Union: Power and Policy-Making*, edited by Jeremy J. Richardson (London: Routledge, 1996): pp. 61-76.

<sup>7</sup> *Ibid.* p. 62.



pet projects—or to press ideas to the point that other affected actors become uncomfortable. Yet this is precisely what is sometimes needed to win placement of these issues on the agenda. This is also the role that the European Parliament has taken upon itself and has performed so well.

European Community environmental policy is a great example of these types of problems. It comprises issues that have engendered controversy on two fronts: 1. the scope of the problems themselves, and, 2. the level at which these problems should be tackled (i.e. local or regional versus national control, member-state or European-wide approaches, or even public sector command and control approaches as opposed to private sector market-based solutions). We will see below that the EP played an important part in bringing these issues to the table, giving them a complete public airing, pointing out logical inconsistencies in the policy preferences of other institutions and various member-states, and garnering public support for their resolution at Community level. This took many years to accomplish and the EP did not do it alone—but it is this, not the passage of legislation, that constitutes setting an agenda.

This discussion of the agenda-setting abilities of the EP is important because it leads to a more accurate appraisal of the influence of the EP. It is also necessary because certain analysts have misused the term. In an excellent article with which I am otherwise in complete agreement, Tsebelis (for example) emphasizes the error by misapplying the concept within the very title of the work. “The Power of the European Parliament as a Conditional Agenda Setter” does not deal with the EP's abilities to set agendas at all. It instead analyzes the possibilities and limitations of the then relatively new cooperation procedure.

The cooperation procedure was granted to the EP by the Single European Act in 1986 to better deal with certain limited aspects of policy (including some

environmental questions). But the cooperation procedure is a legislative procedure which gave the EP new powers to influence the content of legislation—it is something entirely separate from an agenda-setting power. Likewise the limitations on this power enumerated by Tsebelis constrain the EP's ability to ensure that its preferences find their way into the finished legislative product—they do not limit the ability of the EP to place ideas on the table or to structure the terms of Community debate. Why is this important? This misbegotten title contributes to a systematic underestimation of the ability of the EP to perform its most longheld function. It is possible to walk away from a reading of the Tsebelis article with a misguided notion that the EP possessed no ability to affect the Community's policy agenda until the late 1980s and that this ability is now contingent upon certain restrictions and limitations. All of this is mostly true of the Parliament as a co-legislator, it has often been false as a description of the EP as agenda-setter—especially in the area of environmental policy. But then Tsebelis never really intends to describe agenda-setting. He is interested in examining EP legislative power.

#### **The Underestimated Influence of EP Resolutions**

The surprising fact is that the EP has often managed to exert a degree of influence on the Community's environmental policy agenda. The Parliament acted early on these issues. The EP passed a resolution in 1970 that called for Community action to clean up the continent's rivers (especially the Rhine)<sup>8</sup> and another in 1972 that urged enactment of a European air pollution abatement strategy.<sup>9</sup> The earliest of these resolutions predated Commission proposals and any Community actions in these areas. The EP has often attempted to prod the

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<sup>8</sup> Official Journal, Series C 143, December 3, 1970, p. 30.

<sup>9</sup> Official Journal, Series C 19, February 28, 1972, p. 29.

Commission and the Council into submitting and approving broader and tougher environmental measures. It has also often failed——at least in the short run. Most case studies examine one or two particular issues within a relatively brief time frame and conclude that the EP has had a negligible amount of influence over the outcomes. But if we examine several of the EP's old resolutions and reports we find that an astonishing number of the policies, programs, procedures, and institutions the Parliament has recommended have eventually been adopted or created——sometimes five, ten, or twenty years after the fact. It is virtually impossible to ascribe these successes definitively to the Parliament's "power" or "influence." But the agenda-setting role played by the Parliament in this issue area is underappreciated. It has fought stubbornly, and with remarkable consistency, for nearly three decades to win passage of many of the Community's most impressive environmental achievements. The European Parliament has used every power available to it (which were very limited and unimpressive well into the 1980s) to press for stricter environmental policies and greater levels of Community involvement. The EP has even helped to augment these powers (or invent new ones) on these issues and as a result is now beginning to play a more visible role in the formal determination of environmental policy.

### **The 1972 Environment Resolution: A Template For Twenty-Five Years of Community Action**

On May 9, 1972, the European Parliament passed a detailed six-page resolution which congratulated the Commission for submitting its very first communication on the subject of environmental protection.<sup>10</sup> This extraordinary

<sup>10</sup> «Résolution sur la première communication de la Commission sur la politique de la Communauté en matière d'environnement», Journal officiel des Communautés européennes, No. C 46, 9.5.72, pp. 10-15. (Hereinafter referred to as the Parliamentary Resolution of May 9, 1972). This resolution (and the entire

document is both an appeal for greater Community action and a blueprint for achieving a successful and workable European-level environmental policy. A large number of the most important environmental policies enacted by the Community, many of the institutions built, and nearly all of the "constitutional" changes ratified over the next twenty-five years were first called for in this parliamentary resolution.

The very first item mentioned is the need for better information and public education—still a focal point of European efforts—and a plea for the transparency of Commission actions in this area (still a cause of some contention).<sup>11</sup> The second recommendation is for the Commission and the Council to develop specific arrangements for handling certain problems which the EP foresees: ways to finance certain environmental measures, means for assuring that regulations are implemented and enforced within the member states, and the need for sanctions against violators. All of these predicted difficulties occurred eventually, gained prominence during the 1980s and 1990s, and have necessitated many new Community measures.<sup>12</sup>

The Parliament called for the introduction of a new environmental title to the Treaty of Rome in order to give Community measures in this area a sound legal basis.<sup>13</sup> Some have alleged that the fact that Community involvement took place for almost fifteen years without specific legal authority deformed the development of EC environmental policy in favor of measures which could be

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Official Journal) is printed in French. The United Kingdom had yet to join the European Community and English was therefore not yet one of the official Community languages. This may explain why this resolution is so little known in the primarily English language political science literature.

<sup>11</sup> "The European Parliament...deems it indispensable that the Commission contribute to arousing public opinion through a vast and resolute effort of information and education, to bring about an awakened consciousness on environmental problems, and accordingly invites it to publish an easily understood summary of its communications on environmental protection." My translation. Parliamentary Resolution of May 9, 1972, p. 10, para. 2.

<sup>12</sup> *Ibid.*, p. 10, para. 4.

<sup>13</sup> *Ibid.*, p. 11, para. 7.

justified on the grounds of promoting other more explicit Community competencies such as trade and product standards. It was not until the SEA that the EC gained an explicit legal basis in the treaties for its involvement in environmental protection.

The resolution also calls for the Community to practice what amounts to an early form of sustainable development (long before that term came into general use). It resolves that: "a goal should be the creation of a Community economic system that works in concordance with ecological realities."<sup>14</sup> It urges the EC and its member states to take environmental considerations into account "in all political, social and economic...decisions and initiatives"<sup>15</sup>—what today would be termed "environmental integration." It also stressed that agricultural policy, the Community's most expensive responsibility, be placed firmly within the context of ecological imperatives.<sup>16</sup> All of these recommendations, of course, have been taken up, in one form or another, during the 1980s and 1990s.

The EP goes on to invite the Commission to take costs into consideration before adopting environmental policies——but seems confident that this form of "cost-benefit analysis" will redound to the benefit of stricter environmental standards.<sup>17</sup> One widely reported aspect of the Cecchini Report on the proposed Single Market was its calculation of the "costs of non-Europe." The EP similarly appealed to the Commission to, in effect, determine what the "costs of non-environmental protection" might be, and to incorporate these into medium term economic planning. Starting around 1994 this concept became a major issue in the Community.

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<sup>14</sup> Ibid., p. 11, para. 13.

<sup>15</sup> Ibid., p. 11, para. 14.

<sup>16</sup> Ibid., p. 12, para. 24.

<sup>17</sup> Ibid., p. 11, para. 15.

The Parliament asked the Community to adopt a plethora of legislative measures and to create new institutions and programs. It urged policies to reduce the production of waste at source and to encourage the recycling of the remainder.<sup>18</sup> It proposed a measure similar to what eventually would be enacted as the Large Plants directive—legislation to ensure that new plants install the best technology to reduce emissions.<sup>19</sup> It asked for national governments to adopt immediately a form of environmental assessment for new projects (but did not—yet—tread on national sensibilities by proposing a European-level directive).<sup>20</sup> It called for the creation of a Community Environment Fund to assist in financing some of these environmental protection projects.<sup>21</sup>

The Parliament emphasized the importance of an early form of subsidiarity—but one that stressed the authority and legitimacy of local governments. These local authorities are “the best judges of the urgency and efficacy of measures” taken or proposed within their territories.<sup>22</sup> The EP endorsed the creation of a “European environmental body” that would collect information and conduct scientific research and studies.<sup>23</sup> Of course the European Environment Agency would not be created for twenty more years.

In other words, at the very dawn of Community action in the sphere of environmental protection, the European Parliament made numerous proposals that would dominate the agenda for the next twenty-five years. All of these proposals may not be original to the EP—certainly the Commission and some interest groups in various member states were pushing some of the same ideas (remember however that in 1972 none of the national governments could be

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<sup>18</sup> Ibid., p. 11, para. 17.

<sup>19</sup> Ibid., p. 11, para. 18.

<sup>20</sup> Ibid., p. 15, para. 24.

<sup>21</sup> Ibid., p. 11, para. 19.

<sup>22</sup> Ibid., p. 12, para. 20.

<sup>23</sup> Ibid., p. 12, para. 21.

classified as “Green”). But the EP has fought long and hard to push this agenda. Once again, so have certain elements within the Commission, but while the MEPs have had the freedom to express their preferences fully and with a certain amount of dramatic flair, the Commission has been and remains constrained by its need to find policy proposals that would enjoy sufficient support to pass into law. For much of this period that meant writing proposals that required unanimous approval. Commission “agendas” are therefore much more subtle and sometimes even inscrutable.

It is also important to remember that “setting the agenda” is not synonymous with achieving one’s preferences. I do not argue here that the EP possessed any form of actual “power” that allowed it to force unpalatable legislative options upon reluctant or unwilling member states. Most of the above-enumerated parliamentary preferences had to wait years before they were actually passed and implemented by the Community. Some remain hotly debated items on today’s agenda. But the fact remains that the EP worked to ensure that these issues remained in the public eye. It played an important part in changing the perception of these issues. This in turn made it possible for many of its ideas to become Community law.

### **A Consistent Pattern of Parliamentary Preferences**

The European Parliament’s 1972 resolution on the Commission’s draft Environmental program was only one of the earliest of many parliamentary actions on these subjects. It is especially interesting because it prefigures almost all of the Community’s environmental debates for the next quarter century. But I have contended that this constitutes early evidence of a continuing (and continuous) Parliamentary prioritization of these issues. Definitive proof of this

assertion is beyond the scope of this brief paper. I will instead examine some of the highlights of parliamentary involvement—all indicative of continued EP environmental concern, but requiring further research.

**Draft Treaty Establishing the European Union (DTEU-1984) and Other Resolutions**

In February of 1984 the EP passed the DTEU by a vote of 237 to 31 (with 43 abstentions). This document outlined the EP's preferred blueprint for future institutional and policy changes in the European Community. This extremely ambitious document was used explicitly by the Council as the starting point for negotiations that eventually led to adoption of the Single European Act.<sup>24</sup> Many of its proposals were included—in whole or in part—within that first major revision of the Treaty of Rome. Of most importance to this study, however, the EP draft treaty included several prominent proposals for deepening and rationalizing Community involvement in environmental policy. The DTEU proposed the addition of a new treaty article on the environment which would provide a solid legal basis for Community involvement in this area.

The parliamentary Draft Treaty also proposed that the EC should possess concurrent powers on environmental matters—that is, that member states could continue to legislate only in those areas where Brussels had not already legislated. This would formally codify a process that was already occurring through various ECJ rulings. The superiority of Community law—and its finality (i.e., once legislation is adopted it can only be amended or abolished through joint Community processes—never by individual member state decisions) meant

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<sup>24</sup> The European Council acted at the 1984 Fontainebleau Summit to appoint a committee (later known as the Dooge Committee) to prepare recommendations for institutional reform. The European Council acknowledged the influence of the EP's work when it instructed the committee to be guided "by the spirit and method of the draft treaty voted by the European Parliament."



that Community legislation was already slowly displacing national legislation as the primary source of law.

Finally, this watershed document advocated the formal inclusion into the treaties of several normative environmental concepts that were at that point only enshrined in the Environmental Action Programs (which are merely statements of Community goals and not legally binding). These included the polluter pays principle (those who create a problem are responsible for its solution), the concept of sustainable economic development (working to ensure that development remains within the constraints and limits set by nature), the related idea of environmental integration (incorporating ecological considerations into policy decisions in all areas), and the precautionary principle (shifting the burden of proof from governments and consumers to manufacturers—instead of having to demonstrate that a new product or process is unsafe before it can be banned, this principle requires that these be proven to be safe before they can be approved). In other words, twelve years after the EP passed the important 1972 environmental resolution we analyzed earlier, it continued to press for satisfactory outcomes to many of the same problems.

The Parliament has passed so many environmental resolutions over the years that it is impossible for me to do justice to this topic in such a brief review. Many of these ideas were eventually adopted as legislative instruments. In addition to those already mentioned, the EP in 1983 voted in favor of a resolution calling for adoption of a treaty amendment that would once again allow the Commission to impose fines against recalcitrant member states<sup>25</sup>—a goal that was realized (in an amended form) in the Maastricht Treaty eight years later.

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<sup>25</sup> Official Journal C-68, March 14, 1983, p. 32.

### Own-initiative Reports

Parliament was granted the right to determine its own internal rules of procedure (a somewhat unusual right for an “international” institution) when it was first created. One of the creative ways it has used this right to enhance its influence is through so-called own-initiative reports. These reports are purportedly “internal” documents and as such have no formal status in the Community’s decisionmaking processes or enforcement procedures. But in actuality, they have been used, usually informally but at times with great fanfare, both to propose new legislation and to investigate perceived problems or abuses. In 1983, the Parliament reached an agreement with the Commission to publish annual responses to these reports. Since that time, the Commission has put out an annual “Report on Actions Taken By the Commission in Response to Parliament’s Own-Initiative Resolutions.”<sup>26</sup> This reinforced the EP’s oversight abilities and also gave it a rough measure for evaluating the success of its initiatives.

These reports have been used to great affect in the area of environmental policy. Fifty-five own-initiative reports were adopted by the EP on environmental subjects during a roughly five year period encompassing the second directly-elected parliament (June 1984 to April 1989).<sup>27</sup> Committees assign a single MEP to study a particular subject (or acquiesce to an MEP’s request), develop a certain level of expertise, and to propose legislative solutions.

In practice, this self-imposed workload has given the EP a great deal of influence over Commission proposals. The Commission as a whole—and DG XI in particular—has always been small, understaffed, and overworked. The lure of

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<sup>26</sup> Henning A. Arp, “The European Parliament in European Community Environmental Policy.” EUI Working Paper EPU No. 92/13.(Florence, Italy: European University Institute, January 1992): p. 14.

<sup>27</sup> Ibid., p. 13.

an existing well-researched and pro-integration proposal is often too much of a temptation for Commission civil servants to resist. These reports are not generally adopted whole, but they are often used by the Commission as the nucleus for a draft directive or are used as discussion papers to modify proposals that are already in the pipeline. Influence travels both ways through informal channels.

### **The Forced Development of A Parliamentary Oversight Role: The EP As Prod**

We have already examined the exceptional nature of the makeup, practices and leadership of the EP Environment committee. It is important to recognize however, that in some of the European member-states, committee systems are very weak within their own domestic national parliaments.<sup>28</sup> Bowler and Farrell make the point that just “the fact that the EP does have a developed committee system is, by some European experiences, an innovation.”<sup>29</sup> This is an important institutional distinction, because specialized committees are one of the best ways to achieve effective oversight over the executive branch (especially in an increasingly intricate and technical world).

The oversight role of the EP is complicated further by the institutional tangle that comprises the EU. The only European institution that can be compared neatly with its domestic counterparts is the European Court of Justice. Where is the European “executive”? And who is its head? Is it the President of the European Council (who holds the post for only six-months, on a rotating basis) or the President of the Commission (who, in effect, is in charge of the Community’s bureaucracy—which is usually the major part of an executive

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<sup>28</sup> France, Britain and Ireland have very weakly developed and “ineffectual” legislative committees. The German Bundestag and the Italian Parliament both possess much stronger and more powerful parliamentary committees. (Bowler and Farrell, “The Organizing of the European Parliament: Committees, Specialization and Co-ordination,” p. 226).

<sup>29</sup> *Ibid.*, p. 227.

branch)? When Henry Kissinger was U.S. Secretary of State he is supposed to have asked: "When I want to speak to Europe, whom do I call?"<sup>30</sup>

Furthermore, which institution is the primary legislative body for the Union——the Commission (which possesses the sole right to initiate legislative proposals), the Council (whose approval is required before any measure can be adopted), or the European Parliament? Dashwood has recently written that:

...the whole tendency to equate Community institutions with familiar national institutions (e.g. the Council and European Parliament as the upper and lower houses of the legislature, Commission as the government), or to regard them as evolving naturally towards those models, seems thoroughly misconceived to the present writer.<sup>31</sup>

One of my interviewees claimed that the fact that no European government exists is "the beauty of the system. There is no party in power and no permanent opposition. The only thing permanent is the decisionmaking process."<sup>32</sup> This may or may not make the system function more smoothly, but it does complicate the conceptual task of defining the roles of the various institutions.<sup>33</sup> The Parliament must oversee the actions of the Commission, the Council, and even the member-states. It is a much more expansive responsibility than that performed by any other national parliaments——and it is an entirely self-assigned task.

The European Parliament created an oversight role for itself through years of hard work and it has pursued this responsibility——especially in the area of

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<sup>30</sup> Quoted in "Quick March! Who Says?," *Economist* 342 (March 22-28, 1997): p. 60.

<sup>31</sup> Dashwood believes this is misconceived because the Community was designed to accommodate nation-states, is run by nation-states, and will always be run by nation-states. He makes a strong (but I believe flawed) intergovernmentalist argument for the continued primacy of state actors in EU decisionmaking, Alan Dashwood, "The Role of the European Council," in *Institutional Dynamics of European Integration: Essays in Honor of Henry G. Schermers (Volume 2)*, edited by Deirdre Curtin and Tom Heukels (Dordrecht, The Netherlands: Martinus Nijhoff Publishers, 1994): p. 117.

<sup>32</sup> Interview with Carlos Pimenta, MEP (Portugal), ELDR (Group of the European Liberal Democratic and Reformist Party), October 26, 1995, Strasbourg, France.

<sup>33</sup> One recent explanation, that: "the Commission proposes, the Parliament debates, and the Council decides," is already out of date because of the changes resulting from the Maastricht Treaty. Marc Abélès, "Political Anthropology of a Transnational Institution: The European Parliament," *French Politics and Society* 11 (Winter 1993): p. 1.

environmental policy—with an assiduity that has surprised (and discomfited) some of the member states. For many years it was forced to use modest tools and informal procedures and processes to shed light on Community practices.

### Questions

The original Treaty of Rome gave the Assembly the power to ask questions of the Commission (but not the Council). In 1983, the Council, for the very first time, agreed that it would from that point forward endeavor to answer all of the Parliament's questions. This was the culmination of years of Parliamentary publicity stunts designed to embarrass the Council. Westlake underlines the point that this understanding has not been included in either of the two (now three) treaty revisions that have occurred since that time—so this remains an informal political agreement instead of a legal obligation.<sup>34</sup>

In any case, the EP has made full use of its questioning power (whether of the Council or the Commission) and has even expanded it in unforeseen ways. It has been a useful tool for exposing member state (or Community) practices and violations of policy and has been used frequently to publicize issues and garner support. Table One shows that—at least for one legislative year (1989/90)—more parliamentary questions were asked on environmental issues than on any other subjects. At least, this is what the data present now that they have been reformulated to collapse all of the originally separate environmental categories.

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<sup>34</sup> Martin Westlake, A Modern Guide to the European Parliament, (London and New York: Pinter Publishers, 1994): p. 174.

**TABLE ONE**  
**FREQUENCY OF QUESTIONS ASKED**

<b>FREQUENCY OF PARLIAMENTARY QUESTIONS ASKED</b>			
<b>(AUGUST 1989-JULY 1990)</b>			
<b>BY SUBJECT</b>			
Original Table		Reformulated Table	
POLICY AREA	%	POLICY AREA	%
1. Agriculture	5.7	1. Environment & Pollution	9.0
2. Human Rights	4.9	2. Agriculture	5.7
3. Fisheries	4.5	3. Human Rights	4.9
4. Administration	4.0	4. Fisheries	4.5
5. Health	3.9	5. Administration	4.0
6. Pollution	3.5	6. Health	3.9
7. Environmental Measures	3.2	7. Regional Development	3.0
8. Regional Development	3.0	8. Animal Welfare	2.7
9. Animal Welfare	2.7	9. Technical Regulations	2.3
10. Technical Regulations	2.3	10. Road Transport	2.3
11. Road Transport	2.3	11. Research	2.3
12. Water Pollution	2.3	12. Court of Justice	2.3
13. Research	2.3	13. Tax	2.2
14. Court of Justice	2.3		
15. Tax	2.2		
<b>TOTAL</b>	<b>49%</b>	<b>TOTAL</b>	<b>49%</b>

SOURCE: Reproduced and Adapted from Shaun Bowler and David M. Farrell, "The Organizing of the European Parliament: Committees, Specialization and Co-ordination," *British Journal of Political Science* 25 (April 1995): p. 235.

Table Two contrasts the data in Table One with both previously published data for earlier years and data I have compiled. The data for the 1970s and early 1980s seems to indicate—in spite of possible coding inconsistencies (see below)—that the environment was a lower order priority for MEP questioners during that period. This conclusion is probably correct—especially as many of the most consistent questioners in this issue area are Green Party MEPs. Greens did not win any seats in the European Parliament until the second direct elections in 1984.

**TABLE TWO**  
**FREQUENCY OF EP WRITTEN QUESTIONS**  
**ON ENVIRONMENTAL MATTERS**

YEAR	# OF ENVIRONMENTAL QUESTIONS	TOTAL # OF QUESTIONS	% OF ENVIRONMENTAL QUESTIONS
1976	32	1006	3.2
1977	57	1362	4.2
1978	60	1155	5.2
1980	86	2328	3.7
1981	57	2006	2.8
1982	124	2402	5.2
1985/86	319	3163	10.0
1989/90	Not Given	Not Given	9.0
1994/95	719	4764	15.1

SOURCES: Data for 1976 through 1982 taken from R. Bourgignon-Wittke, E. Grabitz, O. Schmuck, S. Steppat, and W. Wessels, "Five Years of the Directly Elected European Parliament: Performance and Prospects." *Journal of Common Market Studies* 24 (September 1985): p. 44. Data for 1985/1986 and 1994/95 assessed and tabulated by Scott DeLong from published questions in the Official Journal. Data for 1989/1990 taken from Shaun Bowler and David M. Farrell, "The Organizing of the European Parliament: Committees, Specialization and Co-ordination," *British Journal of Political Science* 25 (April 1995): p. 235.

Parliamentary written questions are published in the *Official Journal* in their entirety. They are not classified or tabulated in any manner. It is therefore up to the judgment of individual researchers as to how to characterize the topical foci of these questions. The results from the two separate years that I read through and classified might not be strictly comparable to those of previous researchers. For example, if an MEP asks a question about Community licensing of a particular pesticide, one might possibly justify grouping this under the headings of agriculture, health, or environment. My own tabulation choices depended upon the emphasis found within the body of the text. I grouped such questions under the environmental rubric only if environmental factors were a major emphasis of the question. Furthermore, it is impossible to determine if data for the first six data points were tabulated by calendar years (as they appear to

have been) or by parliamentary sessions (as the last three data points were). These data may therefore not be strictly comparable.

I tabulated the percentage of environmental questions for two Parliamentary sessions (1985/86 and 1994/95) in order to determine whether this figure had increased or decreased. I did not attempt to codify and sort through all of the different questions posed by MEPs during these periods (this would have been too time-consuming)—so I am unable to provide data regarding the priority of environmental questions. But the fact that 10% of all MEP questions during the 1985/86 session were environment related (actually higher than 1989/90, the year environment questions scored first) leads me to surmise that these issues were at least near the top of the list. For the later period—1994/95—fully 15% of all questions asked about environmental matters. This is an extremely high figure considering the many different Community policy responsibilities. It too would represent a likely top score—certainly somewhere near the top.

### Committees of inquiry

The Treaty of Rome did not give the EP the power to convene committees of inquiry. But in 1983, some time after the toxic chemical accident at Seveso, Italy, containers filled with contaminated soil were secretly (and illegally) moved from this site to an unknown location in France. The operation did not go unnoticed and neither did the fact that it was in violation of both Community law and the national laws of both member states. When details were not forthcoming from the respective governments:

The European Parliament set up an investigative committee, whose report led to the demand that the Commission step up its monitoring of the application and



implementation of Community environmental legislation. The Commission responded to this demand by setting up a special administrative unit in 1984.<sup>35</sup>

This was the first occasion that such a committee had ever been convened by the Parliament. The maneuver was controversial, but strong public reaction against the movement of this waste, as well as concomitantly high support for the Parliament's actions, muted any criticism. This invented power was used sparingly and only once again (to my knowledge) to investigate an environmental problem (the handling of nuclear waste).

The EP was nevertheless sued by the Council for overstepping its powers. But the ECJ ruled against the Council. Its decision reads in part: "...a decision by Parliament to set up a committee of inquiry is a measure of internal organization which cannot be the subject of annulment proceedings."<sup>36</sup> In other words, the Council had no legal right to interfere with the internal workings of the Parliament.

Almost exactly ten years after the Seveso Waste inquiry, Parliament was granted the formal power to establish such investigatory committees with the entering into force of the Maastricht Treaty in 1993. Article 138c gives the EP the right to investigate "alleged contraventions or maladministration in the implementation of Community law." But the point has been made that this was making a gift of a right that had already been won:

This amendment does no more than give legal backing to an already existing practice—although under the Parliament's current rules of procedure only one such committee may be set up at any one time. Jointly with the Council and the Commission, the Parliament is to define more precisely how its new right of inquiry is to be exercised.<sup>37</sup>

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<sup>35</sup> Ludwig Krämer, "Monitoring and Enforcement of Community Environmental Legislation," republished in Focus on European Environmental Law (London: Sweet and Maxwell, 1992): p. 220.

<sup>36</sup>Case 78/85, Order of 4 June 1986. Cited by Kieran St. C. Bradley, "Maintaining the Balance: The Role of the Court of Justice in Defining the Institutional Position of the European Parliament," Common Market Law Review 24 (No. 1 1987): p. 61.

<sup>37</sup> David Wilkinson, "Maastricht and the Environment: The Implications For the EC's Environmental Policy of the Treaty On European Union," Journal of Environmental Law 4 (No. 2 1992): pp. 233-234.

### Petitions

The original Parliament was not even given the right to accept petitions from supplicants. But it created such a right for itself through its internal rules of procedure.<sup>38</sup> This power was put to little use before direct elections. That is, not many petitions were received. The reason was that few felt that the EP had the influence to accomplish much of any import. This began to change after the first elections were held in 1979.

The first spectacular indication of this change occurred in 1982 and involved an environmental issue. On March 9th of that year a petition which called for European action to protect the fate of baby harp seals in Canada (with over three million signatures attached) was presented to the EP. Von Moltke wrote shortly afterward that:

The institutions of the European Community are not accustomed to receiving such attention and the Parliament was understandably delighted. A petition of this magnitude is a significant political event anywhere; it is also a sign that a lot of people believed the European Parliament—and thus the European Community—could do something constructive about protecting the harp seal.<sup>39</sup>

Parliament responded favorably to the suggestions of the petitioners and the Commission studied the issue about as quickly as these things are ever done in the EC.<sup>40</sup> Finally, public pressure was so great that the Council approved a regulation which took effect little more than a year after the presentation of the petitions to the EP.<sup>41</sup> Von Moltke compares this to the “eternal wrangling” over the Birds Directive which took place from 1976 to 1979 (and which took place, by

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<sup>38</sup> Clark, “Advancing Towards Democratic Control: Review of the European Parliament 1984-89,” p. 54.

<sup>39</sup> von Moltke, “Influences on EEC Environmental Policy,” p. 37.

<sup>40</sup> The Parliament adopted a resolution that urged the Community to pass a measure that would ban the import of all seal and sealskin products from Canada until and unless certain culling and slaughtering processes ceased. Haigh, *EEC Environmental Policy and Britain: An Essay and a Handbook*, p. 304.

<sup>41</sup> 83/129/EEC (*Official Journal L 91, 9.4.83*), Directive Concerning the Importation into Member States of Skins of Certain Seal Pups and Products Derived Therefrom, adopted March 31, 1983. Haigh, *EEC Environmental Policy and Britain: An Essay and a Handbook*, p. 304.

contrast, to a large extent in the national parliaments). He argues both that the seal pup petition gave a large boost to the outside image of the European Parliament and that it reflected an already growing perception of its increased effectiveness within (and sympathy for) certain issue areas. He writes that: "not only would a petition of this kind not have been presented to the old-style Parliament...the Commission's reaction would have been much slower."<sup>42</sup>

**TABLE THREE**

**GROWTH IN NUMBER OF PETITIONS RECEIVED BY  
THE EUROPEAN PARLIAMENT:  
1971-1997**

Year	# of Petitions	Year	# of Petitions
1971	2	1985	234
1972	2	1986	279
1973	6	1987	484
1974	9	1988	692
1975	13	1989	774
1976	19	1990	785
1977	24	1991	694
1978	31	1992	900
1979	57	1993	1083
1980	81	1994	1352
1981	44	1995	1169
1982	78	1996	1107
1983	100	1997*	705
1984	160	*first six months of 1997 only	

SOURCES: For years 1971 through 1984: Francis Jacobs and Richard Corbett, *The European Parliament 3rd Edition* (London: Longman, 1995): p. 290. For years 1984 through the first six months of 1997: Document EN\CM\331\331790, PE 223.569. European Parliament, Committee on Petitions, "Statement to Parliament (pursuant to Rule 157(5) of the Rules of Procedure) on the deliberations of the Committee on Petitions on the petitions referred to it since its last annual report (A4-0190/97)," Covering 11 March 1997 to 11 September 1997. Published 11 November 1997, page 2.

<sup>42</sup> von Moltke, "Influences on EEC Environmental Policy," p. 38.

Petitioners now have the formal right, granted in the Maastricht Treaty (six years after the EP set up a separate Committee on Petitions, yet another example of the member states struggling to keep the Treaties current with existing practice) to address complaints and questions to the European Parliament. The Parliament receives a large number of petitions each year.<sup>43</sup>

Table Three shows that there has been a relatively steady and dramatic growth in the number of petitions received by the Parliament. From a low of two petitions per annum received in both 1971 and 1972 to a high of 1,352 in 1994. The number of petitions fell slightly in 1995 and 1996. This might be attributable to the creation of the Ombudsman's Office in 1994 (as a result of the Maastricht Treaty). The Ombudsman acts as an intermediary between citizens and the institutions of the EU and addresses complaints regarding the performance of these bodies. Some of the petitions addressed to the EP in an earlier time involved matters of this sort. But the administrator of the EP's Committee on Petitions, Sten Ramstedt, believes that both the slight downswing and the 30% increase that occurred during the first six months of 1997 can be attributed to "normal fluctuations."<sup>44</sup>

The large quantity—and growth in number—of these petitions is one of the elements that both keeps the Parliament informed about events and preferences within the constituencies and reinforces the democratic legitimacy of the EP vis-à-vis the other Community institutions. The added influence attributable to this cachet cannot be overestimated. These are aggregate data however. The subject of these petitions is not given. The Commission, which

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<sup>43</sup> See Westlake, *A Modern Guide to the European Parliament*, p. 180 and Clark, "Advancing Towards Democratic Control: Review of the European Parliament 1984-89," in *Times Guide to the European Parliament 1989*, p. 54.

<sup>44</sup> Personal correspondence to author dated 12 December 1997 from Luxembourg.

ends up receiving many of these petitions indirectly (through EP demands for action) has recently published a figure that environmental issues are mentioned in 20% to 25% of all petitions to the EP.<sup>45</sup>

The difference between the EP and many national parliaments is most evident in the area of oversight. There is no area where Parliament has been so active in exercising its oversight functions as in environmental policy. This oversight is more than symbolic—and it is certainly no longer a sham, especially since it has been bolstered by increased legislative powers. Parliamentary oversight has also produced many changes in policy and procedure. Ken Collins explained that:

Select committees in the Commons are nothing like committees in the European Parliament. The chairman of a select committee has no legislative power at all—*I have*. Now that chairman *does* have the power to summon government ministers to appear before them—and I do not have that power—but the British government can ignore the findings of a select committee. It has become rather more difficult for the Council of Ministers or the Commission to ignore my committee or any committee of the European Parliament.<sup>46</sup>

### **Influence on Budgetary Expenditures**

Gradual increases in the Parliament's budget powers constituted the very first substantive powers for that body. Soon after the EP was given a modicum of budgetary power and responsibilities it used them to increase expenditures on environmental policy.

Rehbinder and Stewart related how in the early 1980s the Environment and Consumer Protection Service (ECPS—the predecessor to DG XI) was severely understaffed and underfunded. Some interpreted this situation as a deliberate strategy by certain member states to blunt the effectiveness of

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<sup>45</sup> Commission of the European Communities, Fourteenth Annual Report on Monitoring of the Application of Community Law (1996), COM (97) 299 FINAL Brussels (May 29, 1997): p. 94.

<sup>46</sup> Interview with Ken Collins, MEP (United Kingdom) PSE (Group of the Party of the European Socialists), and Chairman of EP Environment Committee, October 19, 1995, Brussels.

Community environmental policies. But great pressure and publicity efforts led by the European Parliament were mainly responsible (in the judgment of these authors) for increases in the Service's budget.<sup>47</sup> These same parliamentary actions also helped lead to the upgrading of the ECPS to full Directorate-General status.

But the Parliament was to make even greater use of its budgetary powers. Pollack examines six new policy areas that developed within the Community (with greater or lesser speed) during the 1970s: environment, consumer protection, regional development, research & technological development, education, and culture & audiovisual. We will not deal with all of the details of his argument here, except to say that environmental policy seems to be the constant exception to the rules he is trying to develop. One such generalization is that the Council is always responsible for large increases in expenditures in Community policy areas—Pollack terms this phenomenon “Council booms.”

Parliament, by contrast, opts to focus on small-budget line-items and works to incrementally increase expenditures in many policy areas—what Pollack terms “Parliamentary creep.” But Pollack notices that this observation has not applied to the budgetary development of Community environmental policy.<sup>48</sup>

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<sup>47</sup> Reh binder and Stewart, *Environmental Protection Policy*, p. 283.

<sup>48</sup> Pollack, “Creeping Competence: The Expanding Agenda of the European Community,” p. 117.

**TABLE FOUR**  
**EUROPEAN PARLIAMENT INFLUENCE ON COMMUNITY**  
**ENVIRONMENTAL BUDGET OUTLAYS: 1982 to 1997**

YEAR	2ND COUNCIL READING	EP AMENDMENTS/ FINAL BUDGET	% CHANGE (+ or -)
1982	7.470	10.800	(+) 45%
1983	8.690	12.690	(+) 46%
1984	10.055	19.964	(+) 99%
1985	14.770	18.665	(+) 26%
1986	23.638	24.450	(+) 3%
1987	26.349	32.253	(+) 22%
1988	28.605	37.010	(+) 29%
1989	32.50	48.51	(+) 49%
1990	62.91	60.76 (-)	(-) 4%
1991	67.420	108.950	(+) 62%
1992	112.21	121.01	(+) 8%
1993	91.533	100.733	(+) 10%
1994	110.450	133.450	(+) 21%
1995	130.950	137.000	(+) 5%
1996	140.400	133.400	(-) 5%
1997	129.769	131.769	(+) 2%

SOURCES: Data compiled from budgetary data published in the Bulletin. My appreciation goes to Mark Pollack of the University of Wisconsin at Madison for both making me aware of the major EP role in this area and in taking the time to assist me with the data.

One key factor is that Parliament's spending proposals are limited to a range known as the "maximum rate of increase."<sup>49</sup> This figure is calculated by the Commission (with the advice and consent of the EP) and is based on projected economic growth and inflation rates in the Community. It has therefore generally fallen somewhere within the range of 1 1/2 to 3 percent. Parliament's proposals for overall budget outlays cannot increase Community expenditure beyond this modest increment. But the EP has wide latitude to determine where it wants spending increased. It has used this limited power to increase the Community budget to the overwhelming benefit of environmental policy expenditures. (see Table Four)

<sup>49</sup> Furthermore, the Parliament's limited power to increase spending is restricted to non-compulsory budget headings.

Table Four shows that the EP has often raised Community appropriations for the environment by substantial amounts. The most dramatic Parliament-led increase occurred in 1984, when the EP almost doubled the environmental budget outlay (a 98% increase). 1991 places second with an EP-determined 62% hike.

The data also demonstrates a wide range of variation in parliamentary action. On two occasions, for example, the EP voted to reduce the appropriation recommended by Council. The first instance occurred in 1990, when the EP opted to shave 4% off of the Council's second reading proposal. One should note however that the Council that year was supporting an unusually generous 30% boost already—the EP's actions reduced this to a still-hefty 25% increase. The second EP vote for a reduction in the Council's proposal for environmental expenditure took place in 1996. The EP supported a 5% reduction from Council's figure and a 2.6% reduction from the previous year's appropriation. Why? At this time pressures were building for the EU bodies to rein in spending in order to avoid a negative contrast with the situation in the member states—which were almost all feeling the pinch of belt-tightening measures designed to lower deficits and meet the convergence criteria for entry into the single currency. It would appear that the European Parliament places even higher priority on the goal of EMU.

But these two budget reductions are the exceptions to the rule. The EP raised expenditures in fourteen of the sixteen years examined in our table. Variations in the rate of increase were large—from 98% in 1984 to 2% in 1997—but the sixteen year average (inclusive of the two reductions) is an impressive 26% per annum. There is probably no better quantitative indicator for demonstrating the large impact of EP "patronage" on this set of issues.



### The Fight for LIFE (1982-90) and the Reform of Structural Funds

The EP used its budget powers to play a critical part in the creation of a Community environmental fund. We have already mentioned that the Parliament first called for the creation of such a fund as far back as 1972. The Commission supported this concept because it wanted to create a fund that would: 1. consolidate several pre-existing ad hoc expenditures, 2. move EC environmental protection strategy away from an exclusive reliance on post hoc ameliorative measures and more towards prevention, and 3. allow the Community to exert a stronger determinative role in the implementation of environmental measures—especially in the less developed and less administratively-endowed member states. But the Commission's proposals were ignored by the Council for years.

The EP felt so strongly about the need for such an environment fund that it was willing to go out on a limb to try to win approval for it. In 1981, as part of a wider battle with the Council over the size of the entire 1982 budget,<sup>50</sup> the Parliament inserted a new budget heading—"Community operations concerning the environment"—and allocated 6.5 million ECUs to four new programs it had created on its own initiative. By the time the budget landed on the desk of the President of the European Parliament (whose assent is necessary before a budget can be formally adopted) this amount had been cut to 4 million ECU. The entire budget—and most certainly this particular outlay—was deemed illegal by the Council and the matter was taken to the Court of Justice for adjudication. The problem was that the Commission began spending the money allocated for the environment fund during the interim. Haigh comments that: "in effect the

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<sup>50</sup> The Parliament has used its power to throw out the entire budget three times—in 1979, 1982, and 1984.

environment fund had come into existence.”<sup>51</sup> Round one was won by the Parliament.

Parliament repeated the same tactic the following year. It approved 3.75 million ECUs for an environment fund from the 1983 draft budget. This strategy became moot after the Commission proposed a regulation to create a fund (what came to be known as ACE) in January of 1983 and it soon became evident that the Council was open to approving it in some amended form.<sup>52</sup>

The Council (especially its British contingent) had many qualms about this proposal. In order to relieve the worries of its more hesitant members the Council limited the purview of the new fund and also made it a temporary agency with a maximum three year lifespan. The ACE regulation became effective on the 4th of July 1984. It was a modest program but one which was nonetheless bothersome to certain member states. It came into being in spite of state opposition because the EP and Commission were very effective at using public concerns over environmental problems to great advantage. Neither institution got all that it wanted in the ACE regulation—but the Council had to move furthest from its original position and approve some form of environmental fund.

In December of 1986 (seven months before ACE was scheduled to expire) the Commission used its initiative monopoly to propose a new ACE regulation—this time with a duration of six-years. The worst fears of the Council had failed to come to pass so it acceded to an extension of ACE’s life—but only for another four years.<sup>53</sup>

When this time period was due to expire the Parliament became more assertive about its demands. It was no longer satisfied with merely renewing the

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<sup>51</sup> Haigh, EEC Environmental Policy and Britain, page 361.

<sup>52</sup> Ibid.

<sup>53</sup> Haigh, EEC Environmental Policy and Britain, page 380.

ACE program. It wanted approval for a permanent and more ambitious broadly-based Community environment fund for finance of environmental measures. In 1990 it threatened to reject the entire Community budget unless such a proposal was forthcoming).<sup>54</sup> This threat did not immediately bear fruit, but the EP was assured that action would be forthcoming.

In January of 1991 the Commission published its LIFE proposal.<sup>55</sup> Two interrelated factors now worked in favor of gaining Council approval for a more ambitious Community fund. The accession of three new member states (Greece, Spain, and Portugal) with less developed economies and nearly non-existent environmental protection programs combined with the extension (and formalization) of Community involvement in environmental policy (as a result of the SEA) in a fortuitous way. The new members began to demand Community funding as a quid pro quo for their consent to additional environmental protection measures. As a result, Council Regulation 1973/92/EEC was adopted in July of 1992.<sup>56</sup>

The EP can also share credit for the relentless pressure that has resulted in extending structural fund moneys for environmental purposes——and then successfully exercising its informal oversight powers to demonstrate the administrative failings and inefficiencies of the funds' operations. The EP's seemingly endless battle to ensure that environmental considerations are truly taken into account in development projects funded by the Community has resulted in adoption of several major reforms.

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<sup>54</sup> David Wilkinson, "Using the European Union's Structural and Cohesion Funds for the Protection of the Environment," Review of European Community and International Environmental Law 3 (Numbers 2/3 1994): p. 123.

<sup>55</sup> Also known as the: "Regulation Establishing a Financial Instrument for the Environment."

<sup>56</sup> Stanley Johnson and Guy Corcelle, The Environmental Policy of the European Communities 2nd Edition (London: Kluwer Law International, 1995): pp. 347-350.

But the Commission has been acting on these changes as well. It is beginning to haul member states to Court for infringements of the regulations guiding the use of structural fund monies. In its latest report on the enforcement of Community law, for example, the Commission relates that 29 proceedings were begun against suspected violators in 1996. Six of these concerned alleged infractions of EU public procurement rules—but all of the other twenty-three were for environmental violations.<sup>57</sup>

These structural funds remain imperfectly integrated into the environmental programs. Still more reforms are deemed necessary by many observers—but these ameliorative measures have already been proposed by the EP. This is another instance where the Parliament is out in front of the other component institutions of the Community.

### Conclusion

It has often been all too easy (but a mistake) to dismiss the *influence* of the old pre-SEA European Parliament—although it is generally correct to conclude that it did not possess much *power*. It nevertheless did exert a certain amount of influence, especially in certain policy areas like the environment where it expended a huge amount of concentrated effort.

In 1984, the then-vice President of the EP addressed a British gathering and related the following facts regarding the overall success rate of EP amendments:

Figures...show that between 1979 and 1984 the Commission accepted 167 amendments and rejected 84, whereas the Council accepted 152, rejected 354 and part-accepted 79. It is clear from these figures that even the Council of Ministers accepts amendments from the Parliament. It, therefore, seems odd to MEPs to be told by the House of Commons that they have no powers, when the

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<sup>57</sup> Commission of the European Communities, Fourteenth Annual Report on Monitoring of the Application of Community Law (1996), p. 119.

number of successful amendments that House achieves is very tiny with only a few more being accepted from the Lords.<sup>58</sup>

So even in the relative infancy of parliamentary influence—during the pre-SEA, pre-cooperation procedure days of the first directly-elected EP—aggregate data confirms what we have heretofore contended only through examining individual cases: that the European Parliament did have an affect on the shape of European policies.

There is near-unanimous agreement among the different players in Brussels and the member-states that the new powers granted to Parliament by the SEA and the TEU have added a great deal to Parliament's power and influence. Even former British Prime Minister John Major acknowledged that the European Parliament "has gained considerable powers in a short period. It plays a significant role in the legislative process: some 50% of its legislative amendments were adopted, which is a far higher average than any national parliament."<sup>59</sup> It is interesting that both he and Lady Elles compare the powers of the EP favorably with those of national parliaments—even if for opposite reasons.<sup>60</sup> She hoped to convince her audience that the Parliament matters and

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<sup>58</sup>Lady Elles (MEP, Vice-President, European Parliament), "After Dinner Speech," Report of a Conference Held at Wiston House, Sussex, October 12-14, 1984 (Policy Studies Institute, European Centre for Political Studies): p. 41.

<sup>59</sup>John Major, 2nd William and Mary Lecture delivered 7 September 1994 at the University of Leiden, reproduced as "Europe: A Future That Works," in European Access (October 1994): p. 8.

<sup>60</sup>This comparative aspect to assessments of EP powers is important but rather neglected. The fact is that while the EP lacks some powers possessed by most legislatures, its overall position is not much different from many of the member state parliaments. For example, Lodge points out that its much-remarked upon inability to initiate legislation is not such a deficit because initiating legislative proposals is no longer a significant function of most legislatures. "Too much should not be made of this, since in national parliaments the members normally initiate less than 8 percent of all legislation, the rest being driven by the agenda set by the government." Juliet Lodge, "The European Parliament," in The Impact of European Integration: Political, Sociological and Economic Changes, edited by George A. Kourvetaris and Andreas Moschonas (Westport, Connecticut and London: Praeger, 1996): p. 238. Nugent writes that the European Parliament should be evaluated by what it actually accomplishes (sometimes not easy to discern) and not solely on the basis of its much more limited formal Treaty-based powers. He writes that: "it is not difficult to make out a case that in exercising some of its functions—scrutinizing legislative proposals, for example, and contributing to the debate about future developments—the EP exerts a greater influence over affairs than do the more executive-dominated parliaments of some member states." Neill Nugent, The Government and Politics of the European Union, 3rd Edition, (Durham, North Carolina: Duke University Press, 1994): p. 206.

should be given some respect, he went on in the same speech to argue for a freeze on new powers for the EP.

The Maastricht Treaty created a new decisionmaking process—the co-decision procedure—which gives the European Parliament much greater legislative powers. As the name implies, the EP is now a co-legislator (with the Council) in those policy areas where this new procedure applies. But nothing is static in the EU. The Amsterdam Treaty, which went into affect May 1 of this year, extends Parliaments co-decision powers to 23 additional policy areas.<sup>61</sup> It therefore appears that the EP is rapidly gaining many of the traditional powers of a legislature.

I had intended to detail several important legislative battles over environmental policy that have occurred during the 1990s. These demonstrate the new enhanced power and influence of the EP over EU policymaking. I hope that this paper has gone some way towards demonstrating that the European Parliament was never entirely powerless—and that it utilized its limited powers in a skillful manner that enhanced its impact on Community environmental policy.

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<sup>61</sup> Co-decision powers have been extended to the EP in the areas of transport, anti-fraud policies, and public health. See Paola Buonadonna, “MEPs seize on Crumbs of Comfort,” The European, June 26-July 2, 1997, page 7.