

The Path to EU Environmental Policy: Domestic Politics, Supranational Institutions, Global Competition

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Presented at the Fifth Biennial International Conference of the European Community Studies Association, May 29 - June 1, 1997, Seattle, Washington.

Born of dual Community objectives--providing public goods while simultaneously completing the common market--EU environmental policy offers a richly textured terrain for testing the competing theoretical models which have been advanced to explain the dynamics driving European integration. These models attribute radically different levels of significance to domestic political factors, market forces, and supranational institutions such as the Commission and European Court of Justice as mechanisms of policy change. The diversity of mechanisms gives rise to several explanations for the content and development of EC environmental policy. This paper represents an initial attempt to adjudicate between these competing explanations. In so doing, it highlights the relative strengths and weaknesses of functionalism and liberal intergovernmental bargaining as competing theories of European integration. Analysis focuses on secondary community law, and on decisionmaking under conditions of unanimity 1972-87.¹

The first part of the paper examines how intergovernmentalists and functionalists might account for the development of EU environmental regulation--specifically, which mechanisms each theory identifies as the source of "ratcheting". Expectations about the role of various mechanisms are represented as testable hypotheses for adjudicating between competing theories. Sections two through four test the hypotheses against evidence from the period 1972-1987, and identify additional mechanisms by which ratcheting occurs. The final section draws conclusions about the role of domestic politics, functionalist dynamics, and unintended consequences within the environmental integration process.

I. Two Different Paths to EU Environmental Policy

Throughout this paper I use the term "ratcheting" to describe the adoption of EC environmental standards which are more stringent than pre-existing national laws in the member states. The goal here is to determine which of the competing theories of integration, or elements thereof, are confirmed by the extent of ratcheting and the mechanisms by which it occurs. These mechanisms are derived from functionalist and liberal intergovernmentalist models of European integration. While functionalism privileges the leadership of supranational institutions

¹ This excludes consideration of international environmental agreements, although a more thorough analysis would undoubtedly need to consider the extent to which negotiations in international arenas, in addition to yielding effective environmental protection (Haas, Keohane and Levy 1993), shape the development of secondary EC law. Many of these issues are taken up in Golub (1997b).

and their depoliticisation of decisionmaking, liberal intergovernmentalism stresses the primacy of domestic politics.

Functionalism

The expansive logic of functionalist integration theory would lead one to expect a considerable amount of environmental ratcheting, although the specific mechanisms involved require careful delineation. A number of authors have identified geographic spillover (international recognition of transboundary pollution) and economic spillover as reasons why the Community became involved in environmental policy, and why it produced its first Environmental Action Programme in 1973 (Pollack 1994, Hildebrand 1993, Haigh 1984, Brenton 1994). As important as these issues are in explaining EC task expansion, economic spillover and the rise of global environmental movements tell us nothing about what these coordinated actions look like, the actual content of EC laws, and the expected extent of ratcheting. For example, completion of the market could have been accomplished equally well by either lowest or highest common denominator regulations (Golub 1996c). Functional spillover by itself is incapable of explaining the integration process because it ignores variation amongst countries for why they signed actual policies, as well as overlooking the distribution of gains and losses when dealing with coordinated action and negative externalities.

In addition to economic spillover, however, functionalist theory also contends that psychological spillover—aspects of which have been referred to as *engrenage*, or *copinage technocratique*—represents an important mechanism which explains unexpectedly stringent regulatory outcomes, including pervasive ratcheting of environmental standards. At the core of the argument is the claim that national technical experts and national political representatives meeting at the supranational level, particularly those in COREPER and a bewildering array of working groups, develop a sense of collective identity which fosters cooperation and mutual concessions.² In this type of policymaking, often called “problem solving”, national interests are endogenous to the decisionmaking process, constantly redefined through interaction with foreign colleagues, or simply no longer defended. Furthermore, policy made through problem solving does not founder on difficult distributional questions, as rational calculations give way to common goals (Héritier et al 1996, Majone 1993, Peterson 1995, Haas 1958, Haas 1964, Hayes-Renshaw & Wallace 1996, de Zwaan 1995).³ The presence of this unique feature of the

² Webb describes this important sociological aspect of neo-functionalist logic as follows: “the administrative consequences of functional integration...would produce extensive interpenetration amongst the bureaucracies in the member states,” whereby national officials would “find it easy to agree on the definition of a problem and the basis for a solution” (Webb 1982:19).

³ While all of these authors claim the existence of problemsolving, specifying where and under which conditions it occurs remains problematic and a consensus has yet to emerge. Problemsolving may represent a ubiquitous feature of the EC integration process or may be confined to only one of the following locations or stages: the drafting phase of regulations and directives within the Commission, the European standardisation bodies and comitology committees involved during Commission implementation of Council legislation, the Committee of

supranational arena should, according to functionalist theory, yield regulatory outcomes (in our case environmental regulation) which are more stringent than the lowest common denominator associated with standard bargaining practices and unanimous voting conditions (discussed below in connection with liberal intergovernmentalism). In short, when problemsolving obtains ("if A₁") we should find ratcheting ("then B").

Finally, proponents of functionalist models attribute enormous weight to the Commission's agenda setting powers, yet another aspect of the EC's supranational institutions which should result in frequent ratcheting up of national environmental standards. Agenda setting power arises in part because of the persuasiveness, information and positional advantages enjoyed by the Commission, and in part because institutional arrangements make it difficult for member states as principals to rein in their agent to whom they have delegated powers (Pollack 1996).⁴ Peterson and others suggest that because of its agenda setting power, the Commission is able to secure acceptance of 80% of each proposal during Council negotiations. If correct, a very high proportion of the ambitious environmental standards put forward by the Commission should survive intact and exert a considerable ratcheting effect on many, perhaps even all, member states. Simply put, the presence of a powerful Commission agenda-setting capacity ("if A₂") should produce frequent environmental ratcheting ("then B").

For its empirical support, much of the problemsolving and supranational leadership literature draws upon a single but substantial study of harmonisation in the field of health and safety at work (Eichener 1992). Eichener's study deals with a group of directives which were based on Article 100A and were thus subject to QMV. However, the functionalist dynamics described by Eichener arise not from voting procedure, but from the insulation of like-minded decisionmakers, the sociological effects of frequent interaction, and the Commission's dominant role in drafting, and should therefore also apply under unanimous voting. The functionalist literature assumes this possibility--its frequent rehearsals of Eichener's findings as definitive evidence for functionalist logic are never accompanied by language limiting the claim to post-1987 (Single European Act) Community development. One of the central goals of the analysis set out below is therefore to determine whether the available evidence suggests that EU environmental policymaking prior to the SEA exhibits the functionalist dynamics identified by Eichener.

Permanent Representatives which functions under the Council, the chief executives and ministers within the Council itself. Constructivists would certainly not expect problemsolving to occur at only one of these points. Rather, if one accepts the notion of collective rationality posited by Alexander Wendt and others, then problemsolving should be evident throughout the entire range of EC interaction contexts where the interests and identities of national actors are potentially reconstituted by frequent social contact. See Lewis 1996, Wendt 1987, 1994. While I make no effort to do so in this paper, a critique of the problemsolving perspective could be extended to include attention to the role (or lack thereof) of epistemic communities and bureaucratic politics in determining environmental regulatory outcomes which are unexpectedly novel or stringent.

⁴ The Commission's agenda setting ability, when manifest in terms of persuasion and recasting the interests and preferences of member states, might be considered a clear example of what Lukes refers to as the second and third dimensions of power (Lukes 1974).

Liberal Intergovernmentalism

Constituting an important advance over realism, liberal intergovernmentalism (LI) suggests a model whereby European integration proceeds by a sequential process of domestic preference formation followed by intergovernmental bargaining (Moravcsik 1993, 1994). Despite his admirable and painstaking attention to a vast array of empirical evidence, Moravcsik has consistently refused to extend this powerful theory to cover daily policymaking, focusing instead on a handful of "history making" bargains such as the signing of the original treaty, the SEA, Maastricht, and the establishment of the ERM. While claiming to model "European integration," this dramatic restriction of the dependent variable excludes from analysis the hundreds of EC laws which in fact may constitute the bulk of European integration (Golub 1996a). As currently constructed, liberal intergovernmentalism offers few insights into the preferences and influence of actors involved in daily policymaking, and thus no predictions about the content of EC law or the likely extent of environmental ratcheting.

Nevertheless, LI represents the most highly developed model of European integration to date, and there is no reason why it cannot be extended to "daily policymaking" in a way which Moravcsik resists. In the following pages I make a preliminary effort to do so, asking first, under what conditions would LI predict ratcheting, and second, which factors beyond LI bargaining should we consider? To extend LI to daily policymaking, and to the production of environmental policy in particular, it is necessary to consider the process of domestic preference formation, the role of supranational agenda setting, and the potential Council bargaining dynamics.

Preference formation: For our purposes the key domestic players which influence national preference formation are industrial/producer groups, and green groups. Because of the distribution of costs and benefits from regulation, in general the former is concentrated, dominates control and provision of technical information, and traditionally enjoys insider status with government officials, while the latter is more dispersed and traditionally exerts weaker influence (Olson 1965, Moravcsik 1993, Mazey and Richardson 1993). In short, we would expect that the interests of these groups would be first to gain competitive advantages against their European counterparts, and second to avoid adjustment costs and the resulting competitive disadvantages stemming from EC environmental regulation. Under an extended version of LI, these preferences would be taken on by national representatives and defended throughout the negotiating process in Brussels.

Agenda-setting: LI allows little scope for autonomous supranational agenda setting by the Commission, and would therefore discount this as a mechanism for frequent environmental ratcheting. Moravcsik has not addressed the issue of agenda setting in daily policymaking, but one can argue that the Commission's control over first drafts of legislation only takes on the characteristics of meaningful autonomy under two conditions—first, in cases where the Commission's threat to withdraw a proposal forces member states to accept the specific

provisions on the table (in which case member states would consider the default condition of no agreement an even worse outcome); second, when positional and information advantages enjoyed by the Commission effectively render states powerless to amend Commission proposals (in essence, if functionalists are correct in their assessment of Commission power). Barring these two situations, even wholesale adoption of Commission proposals by the Council should not be considered autonomy. Rather, the Commission acts as a reservoir of innovative ideas from which the Council selects at its leisure, thereby retaining individual power of the member states under unanimity or collective power under QMV (Golub 1996a).

Bargaining dynamics: Although the dominant position of producer groups gives rise to the common national preference of avoiding economic disadvantages, traditions of environmental protection vary amongst EC states, generating different environmental baselines in each country. With varying baselines, we can make predictions about which countries might gain from EC harmonisation, and thus the incentives underpinning why these states might have signed EC environmental directives. While no state is an environmental leader in every sector, a crude ranking by national environmental concern might produce the following: Netherlands/Germany/Denmark manifest high levels of environmental protection, while France/UK/Belgium and Italy manifest lower levels. The hypothesis is that EC standards will not exceed the regulatory levels dictated by dominant domestic actors in laggard states at any given point in time unless specific bargaining mechanisms are employed (discussed below).

Following the analysis of Rehbinder and Stewart (1985:9-13), environmental states understandably seek harmonisation at the highest possible levels, but could reasonably be expected to sign just about any EC environmental law, whether product standards or process standards, as each of these has the potential to raise costs in the more polluting states and prevent social dumping. Polluting states would certainly oppose process standards, and also harmonised product standards if foreign environmental trade barriers could be overcome by legal challenge under Article 30 (negative commerce clause). Alternatively, if legal recourse were precluded, polluter states would support product standards at the lowest possible level. Under conditions of unanimity, the resulting incentive structure would predict harmonised but lax product standards, and no harmonisation of process standards beyond the LCD (Rehbinder and Stewart 1985:11). Thus, instead of ratcheting driven by supranational institutions, we expect many LCD outcomes from a tying-hands strategy (Putnam 1988), with national industry and producer groups constituting the essential domestic constituencies which constrain government bargaining. With its negotiating line dictated by these groups, no state government would willingly accept higher production costs or barred exports at the hands of its EC competitors. In terms of testing the competing hypotheses, the prevalence of LCDs ("not B") logically suggests the absence of problem-solving ("not A₁") and Commission agenda-setting power ("not A₂").

II. LCD Bargaining Outcomes

Although claims of ratcheting under conditions of unanimous voting prior to the adoption of the Single European Act (SEA) are widespread in the literature (Sbragia 1993, 1996, Vogel 1996, Haigh 1984, Rehbinder and Stewart 1985), tracing these to the source often gives a muddy picture of the integration process. EC laws can ratchet up standards for one state, a few, or the entire group. Significant ratcheting depends on whether EC law was harmonised at a high or a low standard, and whether substantial costs were incurred at the national level. The absence of these two conditions suggests the absence of significant ratcheting, so that EC law imposes insignificant additional costs on domestic polluters or merely codifies national legal reforms already in the pipeline.

There can be little doubt that EC laws imposed an enormous ratcheting effect on Southern Europe: the entry of these states required wholesale adoption of EC directives against a sometimes tabula rasa background (Collier and Golub 1997, La Spina and Sciortino 1993), and while recent events took place under QMV, Greece participated in five years of EC environmental policymaking under conditions of unanimous voting, during which time many standards were adopted which far exceeded its pre-existing national measures. The implications of these cases for integration theory—whether they necessarily support functionalism or LI—are discussed later in this paper. For the original member states, on the other hand, the picture is fuzzy, the example of nitrates in drinking water often being put forward as indicative of widespread ratcheting. This example, as well as other cases of ratcheting in the original states, are also discussed below in the context of LI.

In fact, a wide range of evidence might lead one to characterise EC environmental policy prior to the SEA as a series of LCD bargaining outcomes based on domestic industrial preferences, with ratcheting constituting the rare exception to the rule. First of all there are examples where a national veto precluded any bargaining outcome, as with the UK and paper pulp or sea dumping proposals (Golub 1994). The British government, partly in response to pressure from national industry, also invoked the subsidiarity principle to ward off EC legislation, a practice which has continued in the post-Maastricht era when some of these same proposals resurfaced (Golub 1996c).

Besides proposals which languished in COREPER or were defeated in the Council, a vast literature (often the very sources cited to confirm ratcheting) documents LCDs where no significant costs were imposed on national groups. This includes instances where in practice EC law doesn't apply to a state, such as Ireland, because it has no affected industry or no pollution problems in a given policy sector (O'Donnell 1991, Bennett 1991:28-9). More often, EC law imposed no real costs because sufficiently stringent standards were either already in place under national legislation or were already under consideration at the time of adoption. And in many cases national pollution levels were far below those mandated by EC law, despite an absence of national legislation.

Taking seven of the air pollution directives as examples illustrates the prevalence of these LCD effects, as well as highlighting the tiny number of ratcheting exceptions:

SO₂ Directive 80/779: standards already met by Belgium, Denmark, Germany, Netherlands (Bennett 1991:46-51, 76-7), France incurred no sweeping changes or costs, and retained its preferred UES approach (Bennett 1991:62-4), Italy's emissions were already falling (Bennett 1991:70), the UK had no SO₂ problem and had laws committed to smoke reduction (Bennett 1991:82-4).

Large plant framework Directive 84/360: standards and authorisation procedures already in place for Belgium, Denmark, Germany, France, Netherlands (Bennett 1991:180-3, 185-193). The UK kept its traditional Best Practicable Means (BPM) approach (Bennett 1991:196). And the directive was effectively toothless, as it replaced Best Available Technology (BAT) requirements with BATNEEC ("...not entailing excessive costs"), and exchanged QMV for unanimous voting on subsequent standards. The directive was further weakened through the incorporation of language, much favoured by the UK, about the environmental absorptive capacity of local ecosystems (Zito 1995, Golub 1994, Haigh 1989:225-6). Significant ratcheting did occur in Italy (Bennett 1991:189), and Ireland might have been forced to implement certain changes to their environmental practices (Bennett 1991:187).

Lead Directive 82/884: Belgium, Denmark, Germany, France, Netherlands and Ireland already met the standard (Bennett 1991:87-9, 93, 98-9), while the UK was already moving towards the standard (Haigh 1989:200). Possible ratcheting occurred in France.

Nitrogen Directive 85/203: standards already met in Belgium, Denmark, Germany, Netherlands, Ireland and the UK (Bennett 1991:104-7, 119-121). France practices would produce few violations and France was already stabilising its emissions (Bennett 1991:111-2).

Sulphur in gas oil Directive 75/716: standards already met or laws already planned in Belgium, Denmark, France, Netherlands, and the UK (Bennett 1991:125-131, 134-7). There was, however, a possible ratcheting effect in Germany and Ireland.

Lead in petrol Directive 78/611: lead limits were already met in Belgium, Denmark, Germany, Netherlands and the UK (Bennett 1991:140-3, 151, 157). The EC move to unleaded ratcheted only Belgium, and even here market forces were already pushing for widespread availability of unleaded petrol (Bennett 1991:140-141).

Industrial plant Directive 84/360: standards already met in Belgium, Denmark, Germany, France and Netherlands (Bennett 1991:179-83,

187, 192). Again the UK kept its preferred BPM approach (Bennett 1991:196, Golub 1994). Various levels of ratcheting were evident in Ireland and Italy: permitting made a big impact in Ireland but very few plants were involved (Bennett 1991:187), while Italy was hit with serious costs (Bennett 1991:189).

Besides these seven directives, EC air laws were filled with specific derogations and loopholes for individual plants, which also allowed states to retain their preferred pollution reduction methods and even expand production in areas of high environmental quality (Golub 1994, 1996b, Bennett 1991:44, Haigh 1989, Rehbinder and Stewart 1985).

A similar story can be told for EC water directives prior to the SEA. Besides opt-outs for specific industry or for geographic conditions, states often introduced vague wording which allowed them to designate for themselves which waters needed improvement. This rendered EC directives on freshwater fish and shellfish almost totally harmless (Haigh et al 1986:26-34, Lavoux 1986:34, 41, Bennett 1986:32, 34). Also similar to the air directives, EC water laws frequently imposed weaker standards than already existed or had been planned in the member states, or provided a legal instrument for environmental standards that were already being met without specific regulation. For almost every state, EC laws on the biodegradability of detergents, surface water for drinking and chloro-alkali plants fall into this category (e.g-- Kromarek 1986:93, Lavoux 1986:61, Bennett 1986:54, Haigh 1989:87-9). In signing many of the water directives, Britain was able to negotiate an important dual control system whereby through EQOs it could maintain its preferred dispersal and absorption approach while gaining the right to apply UES to particularly polluting plants in clean areas. Britain was also successful in negotiating emissions standards which took into account economic considerations (Golub 1994, 1996b).

For the group of EC directives devoted to problems of waste shipment and disposal, available evidence suggests that on the whole they imposed little, if any, significant costs on member states, derived almost entirely from pre-existing national rules, and entailed only marginal adjustments to national regulatory systems (Haigh et al 1986:100, Lavoux 1986:102, Kromarek 1986:109, 118, 124, 131, Bennett 1986:93). Even Directive 76/403 on PCBs, for example, which has been cited as an example of significant ratcheting similar to the ones found by Eichener (Rehbinder and Stewart 1985:214, Majone 1994:54), appears less remarkable when examined closely. While OECD warnings in 1973 and many international disasters shot PCB protection up the agenda, there is no evidence of resistance to the directive in any member state, no important amendments were made to the draft proposal, and national laws were already in place to deal with PCBs (Kromarek 1986:120-2, Lavoux 1986:91-2, Haigh 1989:152). Similarly, there is no indication in the literature that this directive involved heavy compliance costs.

On the whole, the frequently cited *EC Environmental Law in Practice Reports* (Haigh et al 1986, Lavoux 1986, Bennett 1986, Kromarek 1986) along with other studies, give the

impression that EC directives forced states to make many cosmetic changes, and sometimes hire a few additional staff. Much is made about having to introduce binding standards (Bennett 1991:199, Haigh et al 1986:98, 105), but the body of the reports indicate that in almost every case these alterations merely verified the fact that certain types of pollution were not occurring. The remainder of cases usually indicate minor extensions to pre-existing pollution control systems (e.g.--in the Netherlands, Bennett 1986:91). This perspective undercuts the strength of ratcheting claims, including those made in a few of the often cited *Membership Evaluated Series* books (e.g.--van Maasacker and Aarsten 1990). For both of these groups of studies, their purely juridical analysis exaggerates the ratcheting effect by overlooking the question of new regulatory costs and the possibility that states were already moving towards new policies.

Certainly more thorough research is required before concluding that the bulk of EC environmental law pre-1987 was the result of a straightforward LCD bargaining game but the initial evidence points in this direction, thus providing widespread confirmation of the "not B" condition, and therefore "not A₁ or A₂". More precisely, the lack of ratcheting implies that supranational mechanisms were often simply absent, or that when present their effects were inconsequential, or both. As agenda setting represents a formal Commission power always present, its effects appear inconsequential. Prevalence of LCDs is, however, consistent with either a total absence of "problemsolving", or, if one confines the locus of this mechanism to early stages of the policy cycle as many authors do, its presence but inconsequential nature.

III. What Do Ratcheted Bargaining Outcomes Imply?

Even if LCDs predominated, the question remains how to explain the residual cases of ratcheting under conditions of unanimity. Before ascribing these residuals to the influence of functionalist dynamics, it is necessary to consider whether mechanisms derived from LI/bargaining theory might account for these policy outcomes (Vogel 1995, 1996, Putnam 1988, Moravcsik 1993, 1994, Rehlinger and Stewart 1985, Sbragia 1996, Caporaso 1992, Haas 1980). Each of these mechanisms locates the source of ratcheting not in the leadership capabilities of supranational institutions nor their depoliticised decisionmaking methods, but in domestic politics, domestic economic conditions, and concerted efforts by national officials to preserve or alter these conditions through intergovernmental bargaining in the Council.⁵

1) California effect: Rather than the presence of supranational autonomy, ratcheting might result independently from the natural (although possibly unpopular) convergence of preferences amongst member states as they engage in global economic competition for cross-border trade.

⁵ While the absence of widespread ratcheting unconditionally diminishes the explanatory power of mechanisms associated with supranational institutions, capturing the residual raises questions of alternative causality. In other words, the presence of ratcheting by itself says nothing about whether supranational institutions, LI bargaining mechanisms, or unintended consequences were decisive.

In contrast to the feared "race to the bottom", global regulatory competition creates a race to the top, with large green markets driving the integration process. Individual states, particularly Germany and California, threaten to impose higher standards unilaterally, thereby excluding "dirty" foreign goods from their domestic markets. In order to maintain market access, other member states are forced to either meet these environmental standards entirely, or agree to harmonised EC standards at a somewhat ratcheted level of environmental protection. Moreover, the California effect can operate without environmental leader states actively excluding foreign products, when the enormous power of green consumers in these states induces foreign firms to modify their products or risk losing market share. Theoretically, product standards represent the least interesting cases because the widespread aversion to fragmented European markets generates consensus for action and states therefore have extremely high incentives to find collective solutions in the form of harmonised EC laws. Although there remain important empirical questions of which factors are necessary for the California effect to operate, what type of bargaining takes place, and why states agree to the content of specific laws, in terms of hypotheses, we would expect the presence of large green markets ("if A₃") to condition the amount of ratcheting ("then B").

2) Explicit issue linkage (horsetrading, package deals): ratcheting could result when negotiators make explicit trade-offs amongst policies, either *within* or *between* sectors. An example of inter-sectoral linkage might be a state accepting tighter and thus costlier standards for sewage treatment in exchange for a lower contribution to the EC budget, higher agricultural prices, revised pharmaceutical standards or changes in the structure of the VAT. Intra-sectoral linkage, on the other hand, might involve accepting higher sewage standards in exchange for laxer air pollution standards or looser environmental impact assessment rules. Thus, the presence of inter-sectoral or intra-sectoral issue linkage ("if A₄" or "if A₅") should facilitate ratcheting ("then B").

3) diffuse reciprocity: environmental ratcheting could also result from concessions on a specific policy in expectation of unspecified later gains. Perceived gains can take the form of specific envisaged policies or the expectation that the overall benefits of membership are greater than zero. Securing benefits from specific later outcomes possibly depends on intangible factors, such as accumulating goodwill by appearing a good European. Diffuse reciprocity also appears in another important form: with many issues on the table, no state has the political capital to resist them all, so inevitable concessions result (the "economy of the veto," Peters 1992). Nevertheless, ratcheted policy outcomes are reached through diffuse reciprocity ("if A₆ then B") because there is an expected payoff from remaining a "member of the club", rather than because a reformulation of identity or interests transformed the process from one of bargaining into one of problem solving.

4) side payments: states might also offer concessions on a specific environmental policy proposal in exchange for a straightforward bribe, such as increased structural or cohesion funds. In which case the provision of side payments ("if A₇") would generate ratcheting ("then B").

5) slack cutting: precisely the opposite dynamic to the "tying hands" approach which results in LCD outcomes, slack cutting involves collusion amongst national representatives in Council, thereby allowing them to escape domestic constraints and achieve political goals at home which would otherwise be impossible. A variety of advantages are conferred on national officials who operate simultaneously in the domestic and EU arenas--the "two levels" of policymaking--allowing them to redefine their win-sets to include higher environmental standards. These advantages include, among other things, selective manipulation and dispersal of information during bargaining, institutional insulation, and control of initiatives, each of which places domestic opponents in substantially weakened positions. Simply put, if there is slack ("A₈") there will be ratcheting ("B"). Precisely who is in a position to "cut" this slack is a crucial matter to which I will return.

6) expected non-compliance: ratcheting might reflect the willingness of certain states to sign directives which they have no serious intention of implementing. The projected costs imposed by EC standards would be considered irrelevant by states with dismal domestic implementation and enforcement apparatus. In such circumstances, as expected non-compliance ("A₉") increases, so does the scope for ratcheting ("B").

Turning to the residual cases of EC ratcheting, we can ask which of these mechanisms has been important for policy adoption, and which have been "disproved" as necessary causal mechanisms (while remaining entirely plausible theoretically). In other words, which mechanisms were present and generated the expected ratcheting effect, which were absent?⁶

1) From the outset, one strand of the California effect argument lacks a key analytical link: that unilateral green trade barriers were deemed legal under Article 30/36, so that Germany could actively exclude dirty foreign products and force its trading partners to raise their standards. In fact the ECJ doctrine in *Dassonville* and *Cassis* suggests otherwise (Cases 8/74 [1974] and 120/78 [1978], Rehbinder and Stewart 1985:10-11). The Court drew broad prohibitions against measures restricting intra-EC trade, and environmental aspects were not explicitly added to Article 36's exceptions until the French waste oil case (Case 240/83 [1983]) (subsequently extended by the Danish bottles case (Case 302/86 [1988])). Although potentially allowable even

⁶ The analysis here differs somewhat from the treatment of supranational mechanisms, for which it was possible to establish their presence but ineffectiveness. The absence of certain bargaining mechanisms does not imply that when present they would not facilitate ratcheting. None of the mechanisms can be considered essential because the data does not support a claim of "if *not* A, then *not* B" or "B if and only if A."

under *Cassis*, the ECJ never ruled on the legality of unilateral environmental action prior to 1983. Perhaps the most that can be made of this portion of the mechanism is that the hassle and uncertainty of judicial action, thus the possibility of a legally endorsed California effect, forced compromises at levels higher than LCD.

At the same time, however, the non-legal dimension of the California effect certainly played a role in the case of car emissions: some states signed because the directives would impose no costs, or because these costs were an inevitable product of market forces. For example, the size of their export markets meant that Belgium, Denmark, and the Netherlands already met vehicle standard directives 70/220-83/351 and thus faced no new costs (Bennett 1991:162-4).

But even here ratcheting should not be overstated, as optional harmonisation protected producers with huge domestic markets from suffering new production costs and intense intergovernmental bargaining still occurred. Britain, France and Italy all opposed catalytic converters, thereby blocking the 1985 Commission proposal.

Tighter car standards in the mid-1980s did result from a California effect, but not with the legal support of the ECJ. In 1983 Germany introduced unilateral restrictions on polluting (and thus predominantly foreign) cars, accompanied by preferential tax breaks for clean cars. France and the UK threatened to drag Germany before the ECJ for violating Article 92 on state aids, but no ruling was ever made on the legality of German emission standards or tax break measures (Arp 1995:229-31). With the ECJ as an ally, or at least a silent opponent, German policies successfully greened its huge car market, placing enormous pressure on other member states to meet higher standards and eventually tighten EC law dealing with vehicle emissions and catalytic converters.

Nevertheless, despite the example of car standards, even at its best the California effect only provides a partial explanation for the adoption of EC environmental laws. Viewed from a functionalist perspective (Pollack 1994) or a bargaining perspective (Moravcsik 1993:502), authors who invoke the California effect provide no reasons for the ratcheting of process standards, which bring no export benefits but only higher production costs. Green states would obviously push for uniformity at the highest possible level but laggard states would cling to competitive advantage (Rehbinder and Stewart 1985). Many examples of such laws exist in the history of EC environmental policy: paper pulp mills, drinking water and bathing standards, mercury discharges, titanium dioxide, all the waste disposal laws.

2) Widespread usage of inter-sectoral package deals is constantly claimed in literature on EC integration, invariably without any empirical support. Basically there is no credibility in cross-sectoral concessions in day-to-day EC policymaking. Far too many people are required to complete such linkage (not the same person making and receiving concessions), while serious timing problems preclude effective deals and encourage defection for 'new circumstances'. Domestic opposition also prevents linkage because someone always loses. As LI recognises,

you only get inter-sectoral linkage when you can offload the costs onto some disorganised group (Moravcsik 1993:505). As producer/industrial groups are neither diffuse nor passive, government officials would have little room to accept expensive environmental ratcheting in order to gain in other policy areas.

Not a single example of inter-sectoral linkage has actually been identified in the literature on daily EC environmental policy. Besides theoretical objections, several studies confirm the absence of inter-sectoral linkage in practice, shifting the burden on to exponents of this mechanism (Golub 1996b, 1997a, Arp 1995, Liefferink 1995).

But intra-sectoral linkage plays a significant role because credibility of concessions is higher: the same officials bargain repeatedly over time, reducing coordination problems, and multiple environmental issues often arise on the same agenda, reducing chances of defection. It should be noted that LI allows for this type of ratcheting (Moravcsik 1993:506). Lionel Barber, often cited for his provocative article in the *Financial Times* (March 11/12, 1995) suggesting the power of COREPER and the role of intersectoral package deals (the widgets for whiskey example) admits that such deals are extremely rare; inter-sectoral bargains are the exception to the rule of intense intra-sectoral bargaining—such as wine for whiskey (personal communication, 1 April 1995).

In the field of EC environmental policy, intra-sectoral linkage was crucial to the adoption of certain air pollution directives, with Germany making concessions on car standards in order to secure agreement for large industrial plants (Arp 1995:238). The Netherlands also employed this type of linkage frequently, sometimes in order to avoid costs of EC laws, other times to achieve as much ratcheting as possible in certain areas where it was a green leader (Liefferink 1995).

3) Diffuse reciprocity is hard to identify, but underpins LI's claim that bargaining doesn't necessarily yield LCDs—"since it is generally in [a state's] interest to compromise somewhat rather than veto an agreement" (Moravcsik 1993:501). Tangible or intangible, the expected future payoff from concessions is crucial, thus differentiating diffuse reciprocity from functionalist dynamics of problem solving and identity reformulation. Spain's wholesale acceptance of EC environmental obligations in order to demonstrate its position as a central player on the European stage provides a clear example of diffuse reciprocity in combination with side payments—Spain expected to gain more from full and equal membership than it would from environmental derogations (Pridham 1995, Pridham and Konstadakopoulos 1994). But examples are also available from the original member states. The sampling of surface water directive was opposed by both the Lander and the German government on grounds of cost and work load, but eventually accepted "for reasons of Community integration" (Kromarek 1986:39). Germany was also willing to sign what it saw as a flawed freshwater fish proposal to "show its good European will" (Kromarek 1986:54), although such concessions are easy when no costs are involved.

More important than explicit expressions of diffuse reciprocity, this mechanism often takes the form of a state simply not being able to veto everything. British negotiators in the 1970s, for example, were opposed to both the bathing water and dangerous substances directives, but chose to focus their resistance on the latter, thereby securing the dual-measurement system of Environmental Quality Objectives and Uniform Emission Standards at the expense of taking a risk on bathing water standards (Golub 1996b, 1997a). The need to prioritise resistance to groups of directives allows considerable ratcheting, but only under the expectation that no state will suffer consistent losses over time.

Diffuse reciprocity also plays an important role at the implementation stage. Although very difficult to distinguish from slack, the two mechanisms often working in unison, government officials can pressure domestic groups to enforce tight standards with the claim that such sacrifices are part of a European game that offers overall advantages. Thus Germany appealed to "loyalty towards the EC" and a "desire not to spoil European harmony" when imposing costly water laws on its industry, noting that other states were doing the same (Kromarek 1986:132).

4) side payments: although crucial for southern states during and after the SEA, the record reveals no examples pre-1987, and none for any of the northern states.

5) slack: in addition to the standard LI portrayal of chief executives cutting slack (a phenomenon which in practice never occurs in EC environmental policymaking), it is essential to consider two types of slack which LI overlooks. Environmental ministers enjoy what I have referred to as *inter-ministerial slack* when striking deals in Brussels which have been blocked domestically by traditionally powerful ministries such as Finance, Trade and Industry, or Agriculture; environmental ministers also gain *intra-ministerial slack* within their own departments, as green issues are often only a minor element within "superdepartments" dealing with housing, planning and local government (Golub 1996a, 1996b, Collier and Golub 1997).

Inter- and intra-ministerial slack cutting in the southern member states has allowed a significant amount of environmental ratcheting (Collier and Golub 1997, Pridham 1995, Pridham and Konstadakopoulos 1994, Lewanski 1993). This could explain the various examples presented above where Italy was the state primarily affected by EC standards. While most prevalent in the South, there is no theoretical reason why slack couldn't also account for the few cases of ratcheting in the north. It is noteworthy that in the case of Britain, somewhat of an environmental laggard where slack might be expected to play an important role, studies have found no instances where DOE members exploited the European arena to bring home tighter regulations which their domestic ministerial colleagues would otherwise have blocked (see Arp 1995 for cars, Zito 1995 for air, Golub 1996b, 1997a for an extensive review of British environmental bargaining).

Slack cutting remains difficult to identify at the adoption stage, but it certainly becomes an important mechanism at the implementation phase. In a number of cases German officials sought to secure compliance with ratcheted standards by scapegoating the EC (Kromarek 1986:130). French officials made similar efforts, invoking EC obligations when responding to industrial complaints of economic disadvantage from higher environmental costs (Lavoux 1986:101-2). Slack cutting also allows officials to reinterpret their previous bargains, as seen in Germany's portrayal of costs from the bathing water directive as "justified" and "in our own interest" after having resisted aspects of the original proposal (Kromarek 1986:62-71).

6) expected non-compliance: as with slack, this mechanism remains extremely difficult to identify in practice, as any state could sign a directive without intentions to fulfill its obligations. Nevertheless, available information suggests that expected non-compliance plays a more substantial role for southern European states, where the 'Mediterranean syndrome' and other systemic problems prevent effective enforcement (La Spina and Sciortino 1993, Lewanski 1993, Pridham 1995, Pridham and Konstadakopoulos 1994, Collier and Golub 1997). These states top the list for Article 169 infringement proceedings, transposition problems and practical implementation failures. To cite just a few examples, lack of funding and enforcement, particularly at the regional level, resulted in Italian implementation failure for EC directives on SO₂, lead, sulphur in gas, and lead in petrol (Bennett 1991:70, 97, 131, 148).

IV. Beyond Bargaining

Each of the previous bargaining mechanisms derives from a model of integration which focuses on the adoption stage of EC legislation and why each state signed particular proposals. The ability of these mechanisms to account for ratcheting could demonstrate the extent to which the member states foresee the consequences of their agreements and thus exercise tight control over the integration process. In short, these mechanisms illuminate some of the many reasons why government negotiators might allow EC laws to ratchet up national standards. However, a substantial amount of ratcheting might take place despite the expectations of government representatives, demonstrating the gap between why states sign a law and the eventual effect that law has on national practices. The prevalence of these unintended consequences determines whether integration consists of much more than bargains and depends on factors other than strict control by member states (see Pierson 1996).

In fact the post-bargain record reveals a variety of unintended consequences, casting doubt on some of the central claims of LI. Two separate but related facets of unintended consequences require consideration:

1) unintended consequences from inherent bargaining limits: the general phenomenon consists of negotiators not foreseeing the consequences of their environmental bargains (Haigh

1986:105). Ratcheting could result from bounded rationality, or from a lack of basic information regarding the proposal at hand, or simply the weak negotiation skills of an inept national official.

Unintended consequences appear in many forms. First, highly technical and protracted negotiations over EC environmental proposals often result in last minute changes to annexes with no time for national officials to carry out a cost-benefit-analysis (CBA) on the final draft. This played a role in drinking water, where substantial watering down of the original proposal took place over time but one important detail got through without sufficient consideration--the infamous nitrate standard which ratcheted up even German law (Interview with British negotiator/industry representative, 5 July 1995). Unintended consequences also account for acceptance of the nitrate standard by Germany and the Netherlands (Kromarek 1986:50-1, Bennett 1986:28-9).

The endemic bargaining failures of Italian officials help explain why Italy signed so many expensive EC environmental laws. Facing a cash shortage, the Italians often chose not to send any officials to Brussels during the formulation of proposals, and could not afford to commission extensive CBA, leaving them in no position to understand or resist stringent EC directives (Collier and Golub 1997, Lewanski 1993, interviews with UK officials). It is also interesting to note the conflicting views of whether unintended consequences resulted in substantial and costly emissions reductions by German industry in the context of the North Sea Conferences (compare Kromarek 1986:100 with Haas 1993).

In a number of other cases green states sought to ratchet up standards in neighbouring states, export their preferred approach to pollution control (such as BAT) and avoid competitive disadvantage, but ended up having to incur more domestic costs than anticipated. For Germany, EC laws on dangerous substances, groundwater, titanium dioxide, and chloro-alkali demonstrate this effect (Kromarek 1986:74-5, 81-5, 93, 99), as does the bathing water directive for France (Lavoux 1986:45-8). Further research is needed to determine whether these costs were truly unanticipated, or if France and Germany signed the bathing water directive as part of an intra-sectoral bargain, or as a case of inter-ministerial slack.

An important reason why costs of these laws were unanticipated stems from the fact that some states simply did not take the process of European integration seriously, assuming that their domestic standards would conform with some interpretation of EC law. During the 1970s, British negotiators were certainly labouring under this false belief (Golub 1994). A passive approach to policymaking was particularly attractive when costs fell far in the future, as illustrated by France's acceptance of air pollution standards and British acceptance of water laws (Bennett 1991:62-4, Golub 1994).

2) A second crucial aspect of unintended consequences in secondary EC law is that they depend on actors outside the scope of the original policy bargains. As mentioned above, focusing on the bargain alone explains initial outcomes but not the full effects of EC policy. While vague wording and expected derogations allow states to reach a consensus in the Council, this

vagueness has a tendency to evaporate during subsequent implementation. The Commission and the ECJ, neither of which were parties to any of the original bargains, define or redefine provisions of the directive in concrete terms through infringement proceedings and legal interpretation. States may then find themselves facing substantial costs from directives which they had originally viewed as LCD bargaining outcomes.

ECJ legal rulings and narrow Commission interpretations of derogations have transformed a number of what might have been vague and toothless environmental laws into expensive and legally binding instruments, particularly in the area of water protection. The UK has been forced to invest billions of pounds to improve its bathing and drinking water (Golub 1996b, 1997a), as has Germany (Kromarek 1986:46), France (Lavoux 1986:46-7), and the Netherlands (Bennett 1986:40). Germany was also forced to make unanticipated investments in TiO₂ reduction (Kromarek 1986:99).

National courts can also play an important role in the ratcheting process, strategically using references to the ECJ as “a sword or a shield” with which to undermine or conserve national legislation (Golub 1996d). French and German courts have been particularly active in referring cases to the ECJ which deal with the implementation (or lack thereof) of the Birds Directive, while British courts have consistently avoided references in the field of environmental impact assessment (Golub 1996d, interviews with DGXI and Commission Legal Services officials).

The significance of ratcheting mechanisms associated with functionalism, LI, and unintended consequences, is represented in the following table:

Table 1 Sources of Environmental Ratcheting

Basis of ratcheting		Mechanism	Confirmed as empirically significant
Supranational institutions	A ₁	Problem-solving	No
	A ₂	Agenda setting	No
Domestic politics	A ₃	California effect	Yes (conditional, and only for products)
	A ₄	Inter-sectoral issue linkage	No
	A ₅	Intra-sectoral issue linkage	Yes
	A ₆	Diffuse reciprocity	Yes
	A ₇	Chief executive slack cutting	No
	A ₈	Inter-ministerial slack cutting	Yes
	A ₉	Side payments	Yes (only for southern states)
	A ₁₀	Expected non-compliance	Yes (southern states)
Unintended consequences	A ₁₁	Bargaining limitations	Yes
	A ₁₂	Judicial intervention	Yes

Conclusions

I suggested that the environmental ratcheting effect might arise from the presence of ten independent mechanisms derived from functionalist theory and liberal intergovernmentalism (LI). These mechanisms can be grouped into two categories, or "paths"--those which emphasise the autonomy of supranational institutions in shaping policy outcomes, and those which emphasise the domestic political basis of EC policy. Extending the analysis beyond the negotiating phase to include implementation illuminates two more mechanisms, each of which fall under the heading of unintended consequences. In this final section I present conclusions about the development of EC environmental policy and its implications for integration theory.

The available evidence seems to offer no support for the functionalist path to ratcheting, and a fairly equal but low level of support for ratcheting through LI and unintended consequences. Rather than significant ratcheting, negotiations during the period 1972-1987 produced a vast number of LCD outcomes in accordance with the interests of dominant national industry/producer groups. In addition to several vetoed proposals, a plethora of EC laws imposed no tighter standards or new regulatory costs on domestic groups. In most cases national legislation was already in place or under consideration, or EC regulatory standards were already met without explicit domestic legislation. The combination of vague provisions, derogations and loopholes makes it difficult to characterise EC environmental law as the source of a steady ratcheting effect in the member states.

The enormous number of LCD outcomes disproves the central functionalist prediction of unexpectedly stringent regulations generated by problem solving and Commission supranational agenda setting. It was certainly not the case during the 1970s and early 1980s that EC standards were set at the highest common denominator, or even exceeded all pre-existing national legislation, as Eichener suggested in the case of workplace laws. There is also no evidence that psychological spillover and technical experts created a problem-solving atmosphere where national interests were displaced by collective identity and unexpectedly high standards. All the evidence indicates that powerful industry/producer groups and government representatives defended predictable national positions in working groups. Nothing suggests that these groups suddenly lost influence when a proposal went to COREPER. Rather, COREPER deliberations were negotiations involving bargains which reflected important national interests. Furthermore, while the sheer number of LCD outcomes by itself illustrates that the Commission's agenda setting role is anything but decisive, as functionalist theory would claim, this finding is reinforced by the bargaining dynamics evident in COREPER.

Functionalism tells us why there might be something to sign, perhaps even what might be signed, but bargaining tells us what interests were taken into negotiations and why states signed the specific environmental proposals. All the theses, legal reports and articles referred to above confirm the existence of strong preferences by industrial/producer groups, careful consideration

of costs from EC regulation, and active insider involvement in the decisionmaking process at both the national and EC level.

While this does not entirely disprove the role of functionalism in European integration, as this paper dealt only with environmental policymaking under conditions of unanimity during the period 1972-1987, it does indicate how Eichener's conclusions should not be extrapolated indiscriminately to earlier years or other policy areas. As a next step, attempts should be made to identify functionalist dynamics in EC environmental policymaking after the SEA, a task which exceeded the bounds of the current analysis. One should not exclude the possibility that QMV transforms the atmosphere in which policymaking takes place.

It is worth repeating that much more evidence is required before we can claim with any certainty whether ratcheting was the exception or the rule. Either way, however, this does not preclude the steady upgrading of common interests, it clarifies its source: rather than upward ratcheting imposed from supranational actors in the EC, steady upward movement in environmental standards reflects a gradual rise in what constitutes the lowest common denominator. As environmental awareness ascends domestic political agendas, due to publicised environmental disasters and scientific breakthroughs, dominant industrial groups accept, willingly or unwillingly, higher national environmental standards, and thus are in a position to agree on ever tighter EC standards as national preferences evolve towards greater environmental protection.

Rather than functionalism's claims of problem solving atmospheres or identity reformation amongst the actors, identifiable bargaining mechanisms account for many of the residual cases of ratcheting even under conditions of unanimity. In these cases, government officials attempted to gain competitive advantages for their domestic industry/producer groups and minimise the competitive disadvantages associated with ratcheting, but were also sometimes willing to incur the costs of specific proposals because of expected future gains from reciprocal concessions in the field of environment or from the general payoff of continued EC membership. The California effect produced by potential exclusion from export markets, intra-sectoral linkage, diffuse reciprocity, and slack all played a role in the cases where EC environmental standards imposed substantial adjustment costs on member states.

While this paper provides no support for the functionalist model of integration, it equally reveals significant limitations in the LI model as currently constructed and highlights areas where additional research is badly needed. For a start, greater methodological clarity is required in differentiating bargaining mechanisms from competing explanations of policy development. The mechanisms were portrayed here as analytically distinct, but in practice they are sometimes difficult to distinguish and might even operate simultaneously. Frequent ratcheting from either expected non-compliance, or from inter-ministerial slack (with anticipated costs) would suggest a form of LI as a model for integration, whereas widespread unintended consequences would point towards an entirely different dynamic. How, for example, does one know when a

government minister is cutting slack, rather than merely discounting the expected compliance costs of EC legislation or engaging in diffuse reciprocity?

One of the most important conclusions arising from the evidence presented here is that integration does not strengthen "the state", regardless of whether bargaining outcomes are LCDs or ratcheted standards. While they may not impose new costs on industry, LCDs are binding legal instruments which states may not apply selectively, which limit the autonomy, manoeuvrability and sovereignty of national executives in a number of significant ways: LCDs stop states from backsliding and repealing environmental laws in times of economic recession or after a change of administration, force states to meet domestic deadlines, and introduce an element of supranational enforcement (Golub 1996a). Indeed there are many examples of EC law forcing states to follow through with heavy investments in environmental protection which might otherwise have remained nothing more than empty domestic promises.

A second fundamental shortcoming of LI is its conception of the state as a unitary actor, monopolising the interface between domestic politics and EC institutions, capable of wielding the full arsenal of bargaining tactics at any point in time. In the field of environment, not all of the possible bargaining mechanisms were utilised with the same frequency; their importance varied amongst member states, and some mechanisms were rarely if ever employed. Identifying which officials are actually capable of employing these mechanisms, the conditions under which they are used, as well as the relative frequency of their application sheds light on whether daily policymaking, in contrast to high profile history making bargains, strengthens the state as currently conceptualised. In fact, daily policymaking can only be understood if we disaggregate the state, taking into consideration the variety of specialised COREPER working groups and Council meetings which create secondary community law. Disaggregation provides a different picture of bargaining, and thus of the integration process itself.

In order to apply LI to secondary legislation, it is essential to identify which officials are required to achieve issue linkage, and who is the beneficiary of slack when EC environmental policy is negotiated. Amongst unitary state actors issue linkage involves far fewer logistical obstacles than amongst actors in a disaggregated state. In order to have any credibility, inter-sectoral linkage requires tight coordination amongst officials in several national ministries and within COREPER, as well as the ability of these officials to deliver on commitments which might fall in the medium or distant future. Intra-sectoral linkage requires far less coordination and good will, as bargains are concentrated amongst a small group of officials, usually green ministers and technical experts, and multiple issues are covered over a shorter timespan.

LI's misrepresentation of the principle-agent relationship also has enormous implications for the role of slack in daily policymaking. For the big bargains between chief executives, it may be reasonable to conceptualise "the state" as "a single agent" (Moravcsik 1994:4). However, for secondary legislation negotiated by nine, twelve, or fifteen disaggregated states, any national official operating in Brussels enjoys the same advantages over information control, initiative, ideas and institutions that LI attributes to a unitary actor. The existence of highly fragmented

states, the pieces of which negotiate in parallel without effective coordination, allows EC policy to develop without a single controlling national executive.

This creates two important types of slack which LI overlooks. I have referred to them as *inter-ministerial slack* and *intra-ministerial slack*. Each of these mechanisms clearly illustrates that integration does not strengthen the state but rather a wide range of national officials operating in Brussels by increasing the manoeuvrability of lead departments. This line of argument represents an important departure from Moravcsik's position, using the same slack-cutting mechanisms he specifies but reaching a very different overall conclusion.

Future research might test a hypothesis which seems to emerge from the evidence considered above: that the prevalence of inter-sectoral linkage is inversely proportional to the prevalence of slack. To do this, inter-sectoral linkage and slack could be placed in the context of varying levels of coordination within governments (LI proponents recognise the importance of this but have not considered the full ramifications on their principal-agent model. See Moravcsik 1994:66, fn 6). We would expect that inter-sectoral linkage would occur most frequently in states with highly coordinated cabinet and civil service structures, for example Britain. Officials from states with highly fragmented bureaucracies on the other hand, particularly in Southern Europe, would have less capacity for issue linkage but maximum scope for cutting slack. If this is indeed the case, inter-sectoral slack may have particular force in Southern Europe (Golub 1996a, Collier and Golub 1997). Even so, the fact that substantial bureaucratic fragmentation and EC policy co-ordination problems are evident in most member states (Siedentopf and Ziller 1988, Pappas 1995) would suggest that cases of ratcheting from inter-sectoral slack would far outnumber those from inter-sectoral issue linkage.

Other factors might also be sought to explain the variation in types of bargaining mechanisms deployed by each state. Diffuse reciprocity, linkage and slack should all be related to the time horizons of negotiating parties. For many states and their domestic industries, the long-term costs of directives might appear acceptable because of short term advantages gained from bolstering their green image. Similarly, national representatives from states with highly unstable governments, or with a history of frequent government turnover, might be more willing to incur the regulatory costs associated with environmental improvement because the electoral punishment for such costs will fall on future administrations.

Finally, this paper has also highlighted how the extreme complexity of directives and the power of the ECJ and national courts provide ample room, both in theory and practice, for significant unintended consequences and environmental ratcheting. Like the findings about slack and linkage, this conclusion might travel: to the extent that daily policymaking accounts for the bulk of integration, rather than LI's five big history making bargains, member states, let alone chief executives, are not fully in control of the integration process.

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