

**Institutional Linkages Across EC Economic and Environmental Policy Realms**

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## I. INTRODUCTION

European integration has moved beyond the original focus of developing a common market. It now covers a vast array of policy sectors, involving the creation of related political and institutional structures. The Common Market was at the heart of the original Treaty of Rome, and the Single European Act (SEA) gave the integration process renewed hope in the 1980s. While less widely touted in its integration role, European environmental policy has proven to be an extremely successful area of European integration, in terms of comprehensive legislation regulating the behavior of actors. This paper examines the institutional principles and dynamics that underpin the relationship between the Common Market and European environmental policy.

Both the European Community (EC) Common Market and environmental policy have evolved together over the period of their existence, but scholarship has under-explored this interdependent, joint evolution. We discern three main "policy frames," defined as central organizing ideas shaping an actor's policy positions, that have influenced the Community's attempts to tackle this linkage. The oldest frame conceptualizes environmental regulation as an integral part in the process of building a single market. The objective of EC environmental regulation is not to build a European environmental policy regime, but rather to prevent trade distortion produced by diverging national environmental standards, hence it is "conditional" upon the market integration rationale. It assumes a top-down, command and control policy approach.

A second frame emerged from the larger neo-liberal agenda in the mid-1980s and concurrently a heightened environmental awareness. It perceives environmental regulation as a safety net to limit safety, health, and environmental risks in a neo-liberal, competitive, de-regulated market. It recognizes environmental objectives as legitimate and independent from economic goals, but wants to keep market intervention at a minimum, hence advocating regulatory streamlining and simplification and the adoption of EC level framework regulations.

The new emphasis on regulatory competition and EC regulation at basic safety and environmental levels is reflected in the 1985 White Paper on the Single Market:

Henceforth, in those sectors where barriers to trade are created by justified divergent national regulations concerning the health and safety of citizens and consumer and environmental protection, legislative harmonization will be confined to laying down the essential requirements conformity with which will entitle a product to free movement within the Community (CEC 1985: 19, par. 68).

In more recent years, we discern a third frame in EC policy rhetoric and legal formulations: the ecological modernization principle. It conceives environmental protection to no longer conflict but rather constitute a basic condition for economic development, as an integral part of a *modern* market and society. This frame shares with the second ("new regulatory") frame an interest in limiting the top-down regulation of the EC market on environmental grounds. In contrast to the "new regulatory" frame which mixes command and control regulation with "hand off" policy, ecological modernization is rooted in policy integration facilitated by new, less interventionist policy instruments and open participatory structures.

TABLE 1:  
**Characteristics of Environmental Policy Frames**

<i>Characteristics</i> *****	<i>Institutional Aims</i>	<i>Relation to the Single Market</i>	<i>Relation between economic and environmental values</i>
Policy Frames			
Conditional environmental regulation frame	harmonize national regulations and protect environment	protect trade from distortion;  one level of environmental protection	negative relationship between values;  environment dependent on economic sphere
New regulatory frame	protect the environment without trade distortions	allow stricter national levels of protection as long as not discriminatory	negative relationship between values;  environment partially dependent on economic sphere

Ecological modernisation frame	protect environment and promote economic growth	environmental priorities change the way economies run in the region	positive relationship between values;  mutual economic and environmental dependence
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The relationship between policy frames and actual policy outcomes and the role of "frame institutionalization" has received some attention in the literature on environmental policy making (cf. Jachtenfuchs/Huber 1993, Hayer 1993). This paper asks to what extent any of these frames is actually reflected in our empirical cases that pit environmental against economic objectives and how deeply and permanently institutionalized these frames have become. The next section explores the general EC institutional structure linking environmental integration to market integration, assuming that the general institutional framework will influence concrete policy experience. We define institutional structure to encompass organizational, procedural, and normative elements and analyze evidence of frame institutionalization with respect to these three dimensions. Two case studies follow. We selected these cases to represent the breadth of EC environmental policy, in order to uncover the impact of policy frames on the environmental area as a whole. We include waste policy, with its traditional media boundaries (concerns with soil as opposed to water and air pollution) and vertical layers of legislation, and the integration of environmental concerns into the Community's agricultural policy, an issue area that has a horizontal dimension in other EC policy sectors. We assess whether these case studies give evidence of "frame institutionalization." We conclude by highlighting the factors that undermine the formation of "thick" institutional structures which would support efforts to integrate environmental and economic policy objectives.

## **II. COMMUNITY INSTITUTIONAL ANALYSIS**

### **Institutionalist Considerations**

This paper analyzes how well institutionalized are the competing policy frames concerning the economic-environmental link in EC waste and agricultural policy. We offer a perspective on the role of institutional structures in policy making and their impact on policy outcomes and policy evolution. Viewed here as an intermediate variable, institutions are a potential bottleneck or a vehicle for policy change.

We claim that institutional structures shape the points of reference and the political opportunities of policy actors. In other words, the institutional framework shapes the flow of ideas, the construction of interests, the nature of power relations, and the form of interaction between (competing) actors/interests (Hall 1986; Thelen/Steinmo 1992; applied to EC environmental policy, see Jachtenfuchs/Huber 1993 and Gehring 1995). Within this perspective EC institutions, subsuming organizational structures, procedural rules, and normative principles, have an impact on the type of actors involved in waste and agricultural policy, their form of (power) relations and interaction, the interests they pursue, and the type of policy ideas that are circulating and are perceived appropriate and legitimate in the EC policy arena.

Institutional structures, especially in a young governance system as the EC represents, are not fixed as EC actors make choices, define institutions, design institutional rules, and select normative principles. While institutions shape the paths policies take (Weir 1992), the impact of institutions is not deterministic, but rather probabilistic and contingent (Weaver and Rockman 1993). Actors form organizational constellations, build institutional structures, and make policy decisions (and non-decisions) at one particular point which define the course of action that actors can take in the future, by biasing the policy discourse in the direction of certain policy frames and constraining the range of options decision makers perceive as available. Thus, if EC actors have embraced the idea of a fundamental conflict between economic and environmental objectives, it becomes difficult for proponents of the ecological modernization frame to establish their perspective as the basis for future policy making. In order to move from one policy frame to the next and change policy accordingly, policy makers

need to "embed" those environmental values and ideas in the institutional apparatus in such a way that they frame actor perceptions and choices into the future (Goldstein 1988).

The impact of policy frames on policy outcomes depends on the degree, or "thickness," of their institutionalization (cf. Riker 1980, Shepsle 1986). On the organizational level the thickness of frame institutionalization is determined by organizational differentiation from its environment and internal cohesion. Procedural structures in support of a policy frame gain in thickness the better defined, embedded in the process, and automatic the rules are that actors follow within the organizational arena. The impact of corresponding normative structures similarly depends on their coherence (do the elements relate or contradict each other), embeddedness in the process (are the elements well established in the rules of the structure), and acceptance among policy actors within the process (Polsby 1968).

In general, institutional thickness is related to stability and formality of the institutional process and principles. Given a high level of frame institutionalization, actors have less scope to ignore the rules or to interpret them in ways that may not accord with the original premise. A less well institutionalized perspective on the economic-environmental linkage will fall victim more easily to reversal, reinterpretation, and non interpretation.

### **Institutionalization of the Three Policy Frames**

In the following sections we analyze the degree frames are institutionalized, focusing on the EC general organizational, procedural, and normative structures. We show that, at the organizational and procedural level, the oldest frame of "conditional environmental regulation" has a rather deep level of institutionalization. This is despite the beginnings of a legal departure after the SEA and despite increasingly successful Commission efforts to "pave the way towards fully-fledged consumer and environmental protection policies" independent of market considerations (Dehousse 1992: 386). The "new regulatory" frame has failed to become institutionalized in place of the old. We argue that none of Polsby's determinants of institutionalization were met with the result that this frame began to disintegrate quickly with its elements being captured by diverse political interests. The "ecological modernization"

frame has a less ambiguous status in the EC legal structure and policy rhetoric, but suffers from "thinner" supporting organizational and procedural structures. Table 2 previews how the respective policy frames are institutionalized in the EU general organization, procedural and normative structure.

**TABLE 2**  
**Institutionalization of the Policy Frames**

<i>Policy Frames</i> *****	<i>Conditional environmental regulation frame</i>	<i>New regulatory frame</i>	<i>Ecological modernization frame</i>
<b>Institutional Dimensions</b>			
<b>Organizational Structure</b>			
- differentiation	high	medium	low
- internal cohesion	weakening	growing	low, but growing
<b>Procedural Structure</b>			
- definition	high, but growing ambiguity	ambiguous	medium
- embeddedness	high	high	low
- automatic rules	high, but growing ambiguity	ambiguous	ambiguous
<b>Normative Structure</b>			
- coherence	low	low	low
- embeddedness	medium	medium	growing
- acceptance	weakening	high	growing

### **Organizational and Procedural Structures in EU Environmental Policy**

Prior to the SEA, environmental policy was not considered a European policy area in its own right. Environmental regulation took place in order to harmonize national regulation that would otherwise restrict trade (Art. 100) or in order to ensure "the protection of health and life of humans, animal or plants" (Art. 36) as long as these measures did not disproportionately restrict trade. Implicit in this early EC legal framework was the perceived conflict between environmental and economic objectives and the predominance of the "conditional environmental regulation" frame.

The proactive Commission began to lift environment's status in this relationship. It substituted the lacking explicit legal base with the reference to the inherently expansive Art. 235 which legitimizes Community action in cases imperative to achieve Community objectives (such as those implied in Arts. 100 or 36). Despite the fact that this legal detour allowed many environmental measures to be adopted with often only passing reference to their effects on the economic system, the functioning of the European market continues to have priority over environmental protection. In other words, Art. 235 allowed for environmental policy to become embedded and independently institutionalized in the Community, while the primary EC "policy orientation" (Gehring 1995: 5) remains the creation of the Common Market.

The ECJ played a crucial role in instituting the environmental policy orientation next to market integration. The 1985 ADEHU case regarding waste oil disposal and the 1989 the Danish Bottle Case are instances where national progressive policy prevailed over trade harmonization. On the whole, however, the ECJ confirmed the priority of market integration and has been more inclined to prevent than to tolerate protectionist tendencies introduced via environmental measures (Koppen 1992: 27). In the context of positive integration, the Court has failed to adopt unambiguous criteria as to when environmental goals should be given precedent over free trade. Further, it has not provided clarity about under what conditions national autonomy over environmental matters can be tolerated. Consequently, while legal avenues have opened for the EC to escape the confines of the "conditional environmental regulation" frame, the legal basis for this oldest frame was maintained (Art. 100, now 100a). While the Court's rulings clearly facilitated the structuration of the "new regulatory" frame, they have not contributed substantially to its institutionalization.

The SEA formalized the Court's rulings that clearly legitimized environmental policy at the European level. It lifted the objective of protecting the environment to Treaty status and allowed for stricter national environmental rules, though only under non-discriminatory conditions (Art. 130t). On the organizational level the SEA also raised the institutional status of actors, most notably DG XI in the Commission, opposing the exclusive application of the



"conditional" frame and critical of the potential regulatory limits imposed by the "new regulatory" frame. The modification of decision rules involving qualified majority voting and co-decision, with respect to those measures introduced under Art. 100a (unanimity under Art. 130s), boosted EP influence and limited country vetoes. Nevertheless, the SEA confirmed the continued primacy of market integration by failing to consider the environmental impact of the "1992" Single Market project.

The SEA legitimation of environmental regulation combined with the subsequent concern about the absence of environmental controls within the internal market project (Task Force Environment and Internal Market 1990) became visible in the dramatic rise of European environmental regulation after 1989, clearly not intended by the framers of the 'new regulatory' perspective.

The discrepancy between the expectations raised by the 1992 programme and the practical development of the Community's policy soon became apparent: what was originally announced as a streamlining and simplification of national legislation through the new approach to European harmonization policy resulted in a huge effort to modernize and to reorganize traditional legislative techniques and to establish comprehensive schemes of social regulation with the common market (Joerges 1994: 45).

The absence of uniform decision rules proved a procedural factor hindering the institutionalization of any alternative policy frames within a clearly delineated policy space. They fostered a conflict between the goal of adequate environmental protection (Art. 130s) and the harmonization of environmental regulations restricting trade (Art. 100a). The ambiguity allowed actors scope to pursue positional interests (Lenschow 1996) and fight for privileged access to the decision process (Zito 1995). The SEA did not create a "thick" institutional structure framing the economic-environmental policy linkage. Despite alterations in the decision rules, the same institutional ambiguities appeared in the TEU.

A clear and conducive organizational and procedural framework equally eludes the "ecological modernization" frame. In fact, the highly pillarized EC structure continues to favor the two frames that do not perceive an interdependence but rather a conflict between

economic and environmental policy objectives, hindering the implementation of the ecological modernization approach. This structure divides the Council into strictly separate technical fora, the Commission into mostly vertically organized DGs, and the Parliament into parallel committees. It lacks the communication and working channels needed to facilitate effective environmental policy integration.

The Commission's remoteness from local conditions and its small staff have led to a reliance on advisory expert groups and an organizational culture favoring a command and control approach to policy making - further contradictions to the "ecological modernization" frame. Command and control regulation is an element of the traditional "conditional" frame that has over the years gained a 'thick' institutional status, slowing the transition toward ecological modernization despite increased attempts to use economic and communicative (i.e. altering behaviour through information) policy instruments since the Fifth EAP's adoption.

The EC also made recent organizational and procedural changes intended to alter the institutional bias against policy coordination and integration. For instance, environmental liaison officers have been appointed in all DGs to help coordinate policy formulation and communication with DG XI. Several dialogue groups (consultative forum, implementation network, environmental policy review group) have been established to facilitate the cross-government and societal interaction. While the Commission reform has shown limited impact so far, the level of institutionalization and impact on the policy process is slowly deepening (CEC 1996a: 102-3).

### **Normative Structure for EC/U Environmental Policy**

The evolving Treaties, the ECJ case law and the informal acquis communautaire (including policy programs, commitments, and precedents establishing a policy status quo) provide the EC environmental policy's normative structure (Wiener 1996). The more informal EC normative structures often have become more formal (e.g., incorporated in the Treaties) and gained in institutional thickness. Nonetheless, many EC normative principles have inconsistencies and have not been widely internalized by policy actors, hence lack crucial

conditions for thick institutionalization. Consequently, the economic-ecological policy linkage may lack a strong normative institutional basis as well.

To illustrate, the series of EAPs have provided the informal normative basis for the SEA, establishing a set of environmental policy principles. These principles include the following: precaution, prevention of harm, control of pollution at its source, polluter pays, subsidiarity, and the integration of environmental considerations in sectoral policies. Actors should pursue these principles on the basis of scientific and technological information and take into account the costs and benefits of actions as well as regional socio-economic differences. This set corresponds generally with the "ecological modernization" frame, although the emphasis on cost and regional socio-economic differences can be attributed to the EC's predominantly economic policy orientation.

Although the TEU has further enforced these normative guidelines, their actual impact on policy outcomes remains precarious. In part this is due to the easily politicized distributional effects implied in their implementation on the sectoral/policy specific level. The concurrent, but often contradictory, pursuit of policy and positional interests by policy makers also stands in the way of reaching conceptual clarity and institutional depth in many of these principles (this is particularly apparent with respect to the subsidiarity principle).

The Fifth EAP is the firmest manifestation of the "ecological modernization" frame to this date. Contrary to previous EAPs, which were ambiguous with respect to the environment-economy linkage, it clearly introduced the notion of mutual dependence as opposed to a trade-off between economic development and environmental protection. Subsequently, the principle of no-trade-off appeared in several Communication White Papers and communications (most prominently in the White Paper on Growth, Competitiveness and Employment (CEC 1994) and recently the communication on trade and environment (CEC 1996b)). Current job and infrastructural creation pay relatively little attention to the environmental dimension, however, indicating that the no-trade-off notion has not yet been internalized and lacks institutional status in specific policy matters.

While the normative structure underlying the "ecological modernization" frame has nevertheless gained regular attention in policy debates (although only supplementing rather than replacing the "conditional environmental regulation" frame, the "new regulatory" frame has not become institutionalized in a coherent normative structure. We already mentioned the legal and procedural ambiguity that prevented attempts to clarify the meaning of "appropriate regulation." EC rhetoric suggests that elements of the frame were "kidnapped" by different policy camps - either favoring more comprehensive social regulation on the EC level or those advocating de-nationalization of European policy making by radically cutting EC regulatory policy. Case evidence below further indicates that the normative structure provided by the EAPs and Treaties has remained generally thin and fluid and supplies evidence of frame blurring and re-formulation.

### **III. WASTE POLICY**

This case explores the evolution of EC waste policy from 1971 to 1993, isolating long term institutional principles and norms for the basic range of legislation. Waste policy has a fairly established set of institutional actors, involving the Commission DG XI, the EP Environment Committee, and the Environment Council as well as extensive relationships with waste management interests, industrial interests, and NGOs. Equally, Environmental Action Programmes and actual EC legislation have well established basic policy priorities. Nevertheless, this section explores how the general institutional evolution discussed in the previous section affected waste policy, and how the policy's emerging "thick" institutional structure have remained open to debate and lack a firm institutional basis particularly with regard to procedural structures.

#### **Waste Policy before the SEA**

EC waste policy, specifically waste disposal, received its first explicit mention in a 1971 Commission position paper on EC environmental policy (Bongaerts 1991: 13). However, because a clear legal basis for environmental policy was lacking prior to the SEA, Community

actors tended to rely on one basic institutional rule providing a rationale for waste policy: the consequences for the common market. The constrained legal framework for environmental policy resulted in the adoption of the "conditional" frame in waste policy (cf., First EAP and CEC 1989). Specific environmental priorities, such as the prevention of waste, the production of recyclables and the development of better technologies for persistent substances did not achieve a deep normative role in this constitutional context.

Early EC waste legislation reflects this linkage between waste policy and the objective of economic harmonization. In the 1972-1974 period, a number of European countries including the major economic powers Britain, France, and the Federal Republic of Germany (FRG), were developing national waste legislation. The EC goal was to create a set of common principles, including a definition of waste, applicable to all Member States and thereby harmonizing national practices and reducing trade distortions that may have resulted from varied national approaches. This constituted the major impetus for the 1975 Framework Directive for waste 75/439. The economic harmonization rationale equally guided the era's more specific waste directives, such as the Waste Oil Directive 75/442, the Directive 76/403/EEC on the disposal of PCB and PCT chemicals and the Hazardous Waste Directive (78/319/EEC).

Reflected in the Framework Directive was the EC's tendency to approach positive harmonization and environmental regulation through command and control methods. For instance, it required Member States to designate competent waste authorities who had to draw up waste management plans and who were empowered to issue permits for disposal firms. The Waste Oil Directive (75/439/EEC) obliged Member States to ensure proper disposal and safe burning of waste oils by issuing permits and conducting periodic inspections (Haigh *et al.*: 5.7-1,2). The Waste Oil Directive did require Member States to conduct public information campaigns about proper storage, i.e. a "modern" communicative instrument, but the proviso "where necessary" made this a secondary instrument.

A side-effect of these harmonization attempts was the emphasis on compromise in the resulting directives. This was reflected in ambiguous definitions of the terms "waste" and "hazardous", problems in Member State implementation and the inconsistent mix of regulatory measures with a liberal market orientation were direct consequences (Fluck 1994, Zito 1995). The Directive on transfrontier shipments of hazardous waste 84/631/EEC serves as an excellent example. The FRG, the Netherlands, Belgium, France, and the EP wanted very strict authorization procedures and perceived environmental security to be the dominant priority (Agence Europe, 12/16/83: 13). In contrast, the Commission and the bulk of Member States emphasized the need to have a high rate of waste movement in the Community given the lack of proper disposal facilities in certain states. Equally important, they viewed waste in general as a potential economic good, and harmonization of different national approaches was therefore an important priority. The Council's 1984 compromise tightened authorization procedures without suspending the market liberalization orientation (84/631/EEC: 33-35). Trying to satisfy all the different Member States with their individual approaches led either to long policy making process delays or implied the adoption of more general and ambiguous positions by the Commission. This reveals the limits of the traditional harmonization approach in the EC.

In the meantime, the non-binding and hence politically less controversial EAPs pushed toward a clearer definition of policy priorities and normative principles, both generally and with respect to waste policy. The second EAP for the 1977-1981 period made prevention a goal for environmental policy. It called for the polluter pays principle (placing responsibility on the polluter) and established a hierarchy that rank ordered waste management options: first prevention, then recycling, and finally disposal. It took principles mentioned in the 1975 Framework Directive and asserted them on a more general level in the acquis communautaire, hence supporting their institutionalization. The third EAP was the first key waste document of the 1980s. It emphasized the prevention of non-recyclable waste and pushed for clean technologies as a new policy priority (quoted in CEC 1989: 7). Therefore, "green"

technology, a core component of the ecological modernization frame, was included among the EC institutional principles for waste at a relatively early stage. The technology focus in EC waste policy also was present early at the organizational level. The Framework Directive on waste set up a permanent advisory committee to help on technical matters, a structure that was replicated in many subsequent pieces of waste legislation.

### **After the SEA**

The relationship between environmental priorities and internal market considerations took a new turn with the SEA. As previously mentioned, the SEA formally ended the prevalence of economic objectives over environmental ones by establishing environmental policy as a distinct EC priority. However, by allowing for alternative legal bases for environmental legislation and subjecting them to different decision rules that favored different EU actors in the negotiations, the SEA introduced legal ambiguity to the process. This undermined the institutionalization of a clearly defined relationship between economic and environmental objectives. The procedural ambiguity inevitably sparked political conflict in waste policy during the 1990s, blurring coherent policy principles that may have developed otherwise. In normative terms the SEA served to punctuate rather than resolve the economic-environmental policy tension. Neither the positive relationship implied in the ecological modernization frame nor the principle of appropriate regulation guiding the EC's "new regulatory" frame achieved a stronger institutional status. Nevertheless, several normative principles and procedural approaches began to emerge, supplementing but not replacing the old "conditional" environmental regulation frame.

The 1989 publication of the Commission's strategic paper entitled "A Community Strategy for Waste Management" (CEC 1989) indicated an effort to institute a shift from the older frame although specific waste legislation continued to reveal the persistence of conflicting frames and therefore thin structures. The strategic paper set out to show the complementarity of economic and ecological principles by following old practice and pointing to the benefits of harmonized regulation for the common market (*ibid.*: 2). The document also emphasized the

direct economic benefits of environmentally sustainable waste management, therefore highlighting central elements of the ecological modernization frame. The Commission argued that clean technologies and non-polluting manufacturing processes would improve in general manufacturing processes. Nevertheless, the continuing tensions between environmental and economic objectives were revealed in the document's final part which notes that a proposal should safeguard the environment while not involving measures discriminatory to the internal market.

The specific proposals for new green technologies triggered controversy on the issue of discriminatory practices. The Commission itself had suggested only the continuation of the ACE (Action by the Community on the Environment) program to provide financial support for individual technological initiatives. Otherwise market principles should govern the development of new technologies, which gives the technologically advanced northern Member States a comparative advantage. Consequently, legislative proposals based on the utilization of new technologies, such as the proposed 1989 directive regulating hazardous waste incineration, proved controversial. Southern Member States and environmentalist critics perceived countries such as Germany as gaining competitive advantages from the promotion of this final disposal option at the expense of solutions emphasising waste prevention and product reuse.

While the "new technology," no economic trade-off approach may not always be in accordance with the normative principle of prevention raised at an early point in the Community's waste policy, the late 1980s witnessed the emergence of several new initiatives targeted at pre-disposal solutions, that is recycling/reuse and prevention. For instance, the Commission proposed financial support (ACE), technological investment in reuse and recycling technologies, and the development of the ecolabel to inform consumers' product choices (CEC 1989: 7-9). These proposals were a gradual departure from traditional command and control legislation and a new orientation toward economic and communicative instruments.



The choice of instruments remained biased toward regulatory measures, however, and frequently resulted in political conflict. This indicates that, in the late 1980s and early 1990s, EC actors had not yet modified waste policy to the appropriate level of regulation as defined by the "new regulatory" frame. For instance, several Member States, particularly the UK, opposed the rather strict 1991 proposal for a Landfill Directive which aimed to ban practices such as the co-disposal of hazardous and non-hazardous waste; the legislation stalled. Conversely, the proposals for amending the Hazardous Waste Directive and the Framework Directive (CEC 1988a) were initially blocked due to Member State concern about insufficiently strict Community standards and the insistence on stricter national measures.

In the proposals, a procedural ambiguity implied in the SEA heightened the conflict over the appropriate level of Community regulation. For both proposals the Commission had designated 100a as the legal basis, in light of internal market implications and the procedural advantages implied. Most Member States preferred 130s, which gave them the institutional protection of unanimity voting and allowed particular Member States to keep stricter national legislation (Art. 130t). In March 1991, the Council approved the Framework Directive amending 75/442 (91/145/EEC) on the basis of 130s. The division over 100a versus 130s also affected the Community's attempts to fulfil the Basel Convention agreement prohibiting the unauthorized shipment of wastes (UNEP 1989). The Council passed Regulation 259/93, for which the Commission and Parliament had unsuccessfully pushed 100a (Interviews, 1992).

In light of these 1990s decisions, the famous case concerning the Titanium Dioxide Waste Directive (78/176/EEC), a key regulation for water pollution, proves rather exceptional. Here the ECJ ruled in favor of the Commission and Parliament requesting Art. 100a as the Directives legal base, on the grounds of democratic principles. The Court's failure to clarify the proper legal base and nature of the environmental-economic link was evident, however, when it ruled against the applicability of Art. 100a for amending the Framework Waste Directive (ECJ, C-155/91), arguing with the Council that waste cannot be treated as a normal kind of merchandise (Environment Watch: Western Europe, 11/05/93: 4). In general, these

cases reveal that the evolution of the EC waste legislation has been influenced by political debates between EU institutions taking precedence over substantive argumentation about frame principles (or "frame reflection," c.f. Schoen and Rein 1994).

### **After Maastricht**

The 1993 entrance of the Maastricht Treaty did not resolve the debate over the legal base for environmental proposals, and the Parliament gains co-decision powers if the legislation is based on internal market (100a) considerations. More significant for the evolution of waste policy has been the change in regulatory style, moving away from top-down EC initiatives after Maastricht. National policy makers with a re-nationalization agenda were able to exploit the conceptual ambiguity inherent in the "new regulatory" policy frame and attempted to re-interpret and incorporate it their agenda. As a consequence, EU regulation has become more focused on setting minimum standards and quality goals (Héritier, Knill, Mingers 1996).

The primary post-Maastricht policy success has been the adoption of the Packaging Waste Directive. The legislation proved acceptable to the Member States in the end because the Directive's final orientation shifted from an ecological modernization to the old "conditional" frame of reference linking environmental regulations to the market (Gehring 1995). The Directive tries to provide a greater role to recycling/reuse and economic instruments. However, these achievements were bitterly contested and reduced to the lowest common denominator. The Commission originally had wanted to encourage the most ecologically rational disposal methods by inserting a specific reference to a hierarchy, but the Council rejected this plan (Golub 1996). This indicates the thin level of institutionalization of progressive normative principles and new procedural practices.

### **Conclusion**

The conditional policy frame has been the primary impetus for European waste policy since the 1970s. The EC relatively easily developed harmonizing legislation as divergent national practices were conceived as the source of trade distortions. However, problems, including lengthy decision making delays and the adoption of ambiguous and ineffective regulations,

were the consequence. Despite a recognition of these shortcomings in applying the conditional frame to waste policy, subsequent attempts to combine the deregulatory priority with an environmental agenda in the "new regulatory" frame failed. To this day there exists a tension between the threat of over- versus under-regulation. The "new regulatory" frame never achieved sufficient internal cohesion enabling its institutionalization in a conflict-laden policy environment.

Concurrently, the normative principles found in the ecological modernization frame have affected EC waste policy without, however, becoming accepted as the crucial guiding principles in the policy. In the actual management of European waste, the traditional solutions of waste disposal (landfills and incineration) continue to dominate. Both the role of modern ("green") technology and the focus on integrated solutions (e.g. taking into account the "life cycle" of waste and the production and consumption patterns of society) have received increasing attention and shaped the kind of policy instruments considered in EC waste policy (shifting to economic and communicative instruments). However, the use of these new instruments still plays a minor role in the overall waste strategy, and the discussion of their application has highlighted the fact that they are not automatically attuned with either environmental principles (such as the priority of prevention) or the notion of no-trade-off between environmental and economic objectives (due to regional, sectoral disparities).

The task of clarifying the policy principles and fine-tuning of policy instruments is difficult enough, but often the procedural rules have hindered the establishment of a stable interplay between economic and environmental policies and its firm institutionalization in EC waste policy. Under the SEA regime the rules have invited positional interest to prevail over conceptual policy development. This process intensified in the post-TEU political climate, when legal structures that potentially could mediate between European regulation and free trade, such as the use of Framework Directives, received a new institutional rationale in the subsidiarity debate: protecting national "sovereignty" (Golub/Kreber/Collier 1996). Post-Maastricht processes indicate how institutions can change their rationale and trigger a

reinterpretation of policy frames in the face of external developments. This may be particularly easy if the prior institutionalization is relatively thin, as was the case with the "new regulatory" policy frame. The following agricultural case reveals that even thick structures are not protected from external disruptions and pressures for reframing.

#### **IV. GREENING THE EC AGRICULTURAL POLICY**

This case examines the linkage between environmental and economic policy within the agricultural sector focusing on the process of environmental policy integration into the CAP. We argue that the degree of environmental orientation within CAP before the mid 1980s was not explicitly limited by economic worries; nevertheless the economic burden for the farming sector that environmental regulatory measures would entail minimized regulatory action. The environmental integration, which began in 1980 and culminated in the 1992 CAP reform, was motivated by the narrowly conceived and protectionist economic interests of crucial decision makers. It was not an adoption of the ecological modernization policy frame. The CAP reform represents an indirect form of policy integration pursued for strategic reasons more than the institutionalization of a new policy frame. The experience of the CAP reform reveals the difficulty of inserting (horizontally) environmental policy frames into traditional policies such as agriculture.

##### **The Policy Frame Characterizing the Early CAP**

The CAP was conceived as a common policy early in EC history. It consists of two parts: (1) the dominant guarantee system securing previously agreed price levels for most goods produced by European farmers; and (2) the much smaller guidance section assisting farmers to structurally adjust to market conditions. By focusing on price guarantees without production ceilings, the CAP created a "perverse" incentive structure that resulted in surplus production, high consumer prices, continuing low living standards among the smaller farmers mostly in the South, and the employment of environmentally harmful production methods. Hence, there was no effective regulatory structure focused on holding farmers responsible for the

environmental pollution they caused, but the agricultural governance structure further contributed to this failure (Lenschow 1997).

Initially the lack of environmental policy integration was linked to a low awareness of the environmental problems among policy makers and the general public; later the enforcement of environmental protection was considered too high a burden on the sector already held to be "economically challenged." Until the mid 1980s, the CAP remained unaffected by regular criticism due to its very heavy institutional "protective belt" (*ibid.* 1997). Its status was critical as the first and only common European policy and because of its wide acceptance (despite its problems) among policy makers and the general public. Urwin compares this status to that of a "sacred cow" (1991: 135). In its status as an EU "common policy" with a codified set of objectives and policy instruments (Art. 43), the CAP was clearly defined and firmly embedded legally and procedurally.

Furthermore, DG VI and the Agriculture Council were largely insulated from other policy processes and hence "undisturbed" in pursuing these goals, supported by the unparalleled, strong farming lobby on the national and the EC level (Keeler 1996). The environmentally relevant regulatory responsibility was shared between the environmental and agricultural policy actors (DG XI and VI, Environment and Agricultural Councils), whereby the agricultural side took care of the regulation of polluting substances (e.g., pesticides) and the environmental side set quality standards for potentially affected media (mostly water). The former were clearly guided by the conditional environmental regulation frame, assuming a conflict between limiting these substances and the economic well-being of the sector and placing priority on the latter objective. The water standards set by the environmental "pillar" were generally quite high; the water providers rather than the polluters had to maintain the standard (i.e. leading to end-of-pipe measures) rather than on the polluters. In other words, environmental protection was ignored within the agricultural sector and conducted in the form of "health policy" at the periphery of the sector, relying on a separate set of actors.

### **Partial Shift of Frames with the CAP Reforms**

Enlargement, the single market relaunch, and the international context of the GATT negotiations undermined the institutional stability of the CAP described above. More specifically, the revived single market program and its new cohesion dimension (introduced after southern enlargement) challenged the CAP's role as the core Community project, hence allowing for more effective criticism of the CAP's negative fiscal, social, and ecological side effects. The CAP was no longer perceived as internally cohesive. Furthermore it conflicted with the EC pursuit of new, more salient policy directions such as market integration and economic cohesion. It had lost previous normative acceptance as well as organizational and procedural "insulation." In short, the new context challenged the dominant and politically insulated position of DG VI within the Commission and of the Agricultural Council vis-à-vis their colleagues in the Finance Council. It slowly undermined the agro-lobby's privileged access to the policy process. Enlargement had the additional effect of beginning to fragment the agricultural interest. Also, procedural changes were introduced to ensure more financial control of the CAP expenditure (Lenschow 1996b).

With the "thick" institutional structures around the CAP loosening, new, albeit limited, opportunities arose to introduce environmental actors and policy elements into the CAP - where neither had played a role before. With the CAP's economic and social merits under tremendous fire, policy makers slowly redefined CAP into a rural policy intended "to reconcile the economic, social and environmental objectives of the Community... and increasing emphasis... on diversification and extensification of agricultural production, and alternative uses of land" (CEC 1987a: 5). The EC slowly reduced the increasingly politically untenable level of price support, partly substituting direct income support (decoupled from productivity targets). The EC justified this income support because the farming population would provide environmental services in return (for details see below; c.f. also Grant 1996, Lenschow 1997).

From the perspective of policy frames, we must conclude that, in an increasingly destabilized context, environmental considerations were introduced to provide new legitimacy to a protectionist regime. Environmental reforms were mostly of a strategic nature, and not

reflective of the institutionalization of the ecological modernization frame in the agricultural sector. Under the "green cover" even critics favoring the application of free trade principles in agricultural policy could tolerate the continuation of protectionist, though modified, practices. In essence, agricultural policy makers used two *argumentative paths* in justifying the reform. In the international context (the on-going GATT negotiations) the "environmental reform" of the CAP was argued to ensure an acceptable level of environmental protection without greatly distorting international trade (i.e. the "new" regulatory frame). Internally, while certain elements of the CAP reform were presented as "win-win" solutions (the discouragement of uneconomic practices such as extensive pesticide use), others remained rooted in the "trade-off" thinking which justified continuing support of the "losing" agricultural sector.

### **The Story of the Reform**

Two partial reforms preceded the more extensive, to this date, change of European agricultural policy in 1993 (the so-called MacSharry reform). The first CAP reform in 1984 slightly modified the price support system, introducing some quotas and price guarantee thresholds, so-called co-responsibility levies to pay for surplus disposal, and a budget increase ceiling. The second CAP reform in 1988 took place under heightened political pressure. After enlargement and the SEA's adoption, resources were needed to support the structurally disadvantaged new Member States and to finance the single market projects and expansion into new policy areas. In a complicated bargain, with Britain particularly pushing for CAP reform, a financial package was passed that began to curtail the CAP's portion of the EC budget (i.e. changing the procedural context of the CAP). Beyond cutting the price support system, the Community introduced new structural elements in the CAP: compensated set aside of arable land, an early retirement scheme and direct income support for poorer farmers. Policy makers expected that the set-aside policy in particular would have a positive effect on the environment since the land in question would recover from previous exploitation (due to intensive farming methods) and could even be used for active ecological renewal in the area (through afforestation, for instance).

### *The Internal Debate*

The continuing budget crisis linked to the CAP indicated that these CAP reforms had not represented a change in the level, but only in the form, of protectionism. In this context environmental policy integration served to provide additional legitimacy for a modal change of the CAP, while keeping the level of support for the farming sector high. The 1992 MacSharry reforms continued the previous reform path by gradually shifting the CAP's basis from price support, with its negative economic, social, and environmental externalities, to income support. Significantly, they introduced the so-called "accompanying measures," which included explicit environmental programs. Generally, however, the reforms focused on the reduction of surplus production and treated environmental integration only as a *beneficial side-effect*. Arguably even the "accompanying" agri-environmental action program was only an element of the production control agenda; it was adopted to

give recognition to the dual role of farmers as producers and as stewards of the countryside, and to encourage farming practices which are less intensive and more in tune with environmental constraints... which should also make a positive contribution to rebalancing the markets (CEC 1991: 2).

The political appeal of the new "rural policy" lay in the implied shift from a single to a multiple interest policy, i.e., a wider basis of support, without denying the farming sector its traditional "right" to extensive public assistance. In other words, environmental integration entered the political arena as a tool in the bargaining process to steer the economically increasingly inevitable CAP reform process in a direction that saved the basis of support for the farming sector. Tied to social reforms, the environmental elements lifted the stigma attached to welfare payments and introduced the notion of service payments (in return for caring for the countryside). Tied to structural measures and even price cuts aimed at surplus reduction, the environmental benefits created a rationale for generous compensation payments. In both cases the CAP's social and environmental critics joined the farming interests in defense of a protective common agricultural/rural policy in Europe.



They failed, however, to institutionalize the ecological modernization frame in the agricultural policy making. On the normative level, environmental protection is still perceived as a cost for the sector, rather than the basis for future production. Alternatively, it is used as a substitute occupation. The procedural structures for environmental policy integration are ambiguous leaving ample room for "slippage" (Josling 1994). Likewise, the integration of organizational structures has occurred only at the margins of the policy making process (Lenschow 1997b).

### *The International Context*

The co-optation of the environmental interests achieved particular importance in 1992 when the CAP's future became linked to the GATT negotiations and hence the EC role in international trade relations (Lenschow 1996b). Previously, agricultural ministers had voiced skepticism about the need to transfer environmental management to Community-level authorities (European Report, No. 1339, 9/12/87). In the 1992 Council these measures no longer raised much controversy as the opinion prevailed that the "environmental aspect of the reform [would] facilitate its acceptance outside the EC" (British agriculture minister Gummer quoted in Agence Europe, No. 5670, 4/30/92). European policy makers anticipated that their international trading partners would not interpret support for farmers if the support was couched as remuneration for the farmers' contributions to environmental stewardship, i.e. as a measure corresponding to the "new" regulatory policy regime. Hence, introducing the environmental dimension helped maintain the CAP regime not only in the post-enlargement and post-SEA era, but also in the GATT negotiations where cuts in agricultural subsidies seemed inevitable.

Despite various pronouncements of further environmental integration in the CAP (Agence Europe, No. 5772, 7/15/92 and No. 5826, 8/1/92), the lack of progress since 1992 and non-existent environmental institutionalization in the CAP (CEC 1996) serve as evidence for the hypocritical element in this pro-environment strategy. Mirroring the EC waste policy after the TEU's adoption, national governments resisted Europe-level institutionalization of an

environmental dimension within the CAP on the grounds of subsidiarity. Member State representatives use diverse local conditions as a justification for avoiding an expansion and the coordination of Community measures, notwithstanding the general absence or insufficient nature of local structures for environmental protection in the agricultural sector - signifying the continued prevalence of the "conditional" policy frame.

### **Conclusions**

As is indicated in the toothless character of environmental regulatory policy concerning the agricultural sector and the absence of environmental conditionality in the CAP's redistributive measures, environmental policy integration in the CAP has been traditionally weak and continues to remain limited. The CAP's special institutional status and structures led to a late politicization of the environment-economy linkage, and hence initially no explicit association with the policy frame discussed above. Nevertheless, the implicit presumption of environmental protection as being a costly luxury, not affordable for the farming sector, remained dominant.

For mostly exogenous reasons the institutional edifice of the CAP has been severely challenged since the mid 1980s. In this new context, the environmental dimension was introduced (in the form of an adapted redistribution regime) to provide new legitimacy while maintaining agricultural protection. Especially in the context of the ongoing international debate, explicit reference was made to the "new" regulatory frame, demanding a baseline of environmental protection which could justify even minor trade distortions. The ecological modernization frame had acquired enough presence in the EC arena to require a rhetorical response: however, it was not the primary basis for the CAP reform. Effectively the ecological modernization frame was used to help keep alive a threatened protectionist agricultural regime in Europe.

Consequently, the institutionalization of environmental considerations remains thin and unstable (although an improvement over their complete absence only a decade ago). The formal environmental regime introduced since the mid-1980s triggered only a few

organizational and procedural changes in the CAP (CEC 1996a). Normative policy principles have had no discernible impact, as pragmatic rather than normative reasons drove environmental policy integration. For instance, the CAP continues to contradict the polluter pays principle. In terms of policy instruments, economic incentives are not new in agricultural policy; hence their usage is not evidence of a frame shift in this policy area but rather a compensatory measure for lost revenue. Member State opposition has blocked the introduction of communicative instruments (Interview 1994), further supporting the conclusion that the thick institutional structure of the traditional CAP continues to constrain deep reforms and the institutionalization of any environmental policy frame.

## V. CONCLUSION

This paper investigated the degree to which policy frames and the level of their institutionalization shape policy evolution in the EC. The frames that we consider address a crucial policy linkage: the relationship between economic and environmental policy. The Community history reveals three such policy frames: (1) the oldest, "conditional environmental," defines environmental regulation in terms of building the single market; (2) the "new regulatory approach" that acknowledges basic environmental standards but desires the minimum market intervention; and (3) the ecological modernization approach emphasizing policy integration through new instruments and policy structures.

Analyzing first the institutionalization of these frames across the general EC policy making system (including the organizational, procedural and normative levels), we find that the EC organizational rules and goals constrained actors to approach environmental policy in a way that did not restrict trade. Aspects of the conditional policy frame remain most prevalent in EC policy making as the other two frames have not made great headway against the thick institutional structures. For example, fragmented organizational structures, especially the separation of EC policy making into distinct functional areas like agriculture and environment, inhibit the institutionalization of a more cohesive economic-environmental policy linkage.

The policy making procedural structures lack clarity in definition and consequently are not applied automatically. This leaves the more recent policy frames vulnerable to positional and bureaucratic fighting. The fight over the usage of Art. 130s versus 100a is one example. EC actors have not fully institutionalized integrated procedures suggested by ecological modernization into the implementation structures. Avenues for wider societal participation remain underdeveloped. The level of coherence and embeddedness of normative structures remains equally precarious. Nevertheless, significant moves toward institutionalizing a more balanced and non-discriminatory economic-environmental linkage are underway, and thin institutional structures in line with the newer policy frames are thickening. In practice actors may not be able to ignore these changes "on paper" in the longer term.

A similar pattern holds true for the policy making presented in the two cases. Our historical analysis suggests that the institutionalization of an economic-environmental policy linkage takes place along case-specific paths. Naturally, the specific characteristics of the policy issue, its policy tradition, and the larger European (and international) political and economic systems influenced these paths.

At the organizational level, the case studies reveal the least institutional change because both waste policy and the common agricultural policy possessed stable, institutionalized structures prior to the perceived need to re-frame the economic-environmental linkage. DG XI developed waste policy on the basis of the "conditional" environmental policy frame. By contrast, the original CAP was too insulated organizationally from even perceiving the economic-environmental linkage, hence none of the policy frames introduced applied to the CAP initially. Consequently, certain organizational changes affecting waste policy (e.g., new advisory committees) served to deepen existing structures while organizational changes in the context of the CAP (e.g., new consultation channels with DG XI) tended to challenge old patterns without replacing them with alternative structures framing the economy-environmental link. To the extent that new policy frames have penetrated the CAP, they have

caused a thinning of traditional structures, introducing new organizational differentiation and complexity.

On the policy formulation and decision making level, procedural structures lack adequate embeddedness of procedures reflecting the new frames (e.g., regular cross sectoral consultation, broader participation) and the absence of automatic rule application. Without clear definitions, excessive interference of political/positional rationales in the choice of procedures takes place. In specific cases, actors consequently continue to determine the policy linkage's shape on an ad hoc political basis rather than using institutionalized rules and procedures. This was especially evident in the waste policy case, such as the Art. 130s vs. 100a controversy.

With respect to the institutionalization of new implementation procedures, i.e. the shift from command and control to economic and communicative policy instruments, the case studies show some adaptation to the ecological modernization frame. But again, political considerations, with Member States resisting new EC intervention in national fiscal systems and state-society relations, block deep institutionalization.

Moving to the normative dimension of new institutional structures, we observe great ambiguities. With respect to waste legislation, the lack of thick institutionalization seems due to the insufficiently coherent and fine-tuned normative "package." The legislation provides little guidance on how to deal with distributional questions on the sectoral and regional level which, despite the framing of a potentially harmonious relationship between economic and ecological objectives by ecological modernization, introduce political and social problems in the shorter term. Also reconciling a normative shift towards green technologies with the prevention principle requires further conception. The problem in agriculture lies not only in insufficient fine-tuning, but more deeply in a lack of acceptance among key actors. The farming sector is still quite far away from accepting its responsibility for environmental degradation and the need to integrate environmental considerations into production processes. Again, the non-applicability of the no-trade-off principle on the sectoral level inhibits the

development of deeper acceptance of new normative principles found in the newer policy frames.

We conclude by emphasizing the factors that emerged from this comparative case study as responsible for the varied and generally not overwhelming level of institutionalization of either the "new regulatory" or the ecological modernization frames. The *persisting influence of traditional institutional structures* and their distance from the two frames are particularly notable. The fact that waste management is, by its very nature, an economic activity resulted in a more integrated discussion of economic and environment concerns from the beginning. While measures that pose a stronger challenge to the traditional running of markets and societies (emphasizing prevention, reuse and recycling) have been less prominent, the linkage of environmental and economic policy is clearly realized and more easily institutionalized.

In sectoral policies, such as agriculture, policy makers are used to adopt a narrow policy orientation, ignoring EC environmental policy linkages. Environmental policy makers similarly (though probably less so) tend to resist an integrative perspective due to their attempts to strengthen the role of their policy orientation and influence in the overall system. The shift toward, and the institutionalization of, policy integration has therefore been slow and relatively thin. It has been particularly thin for agricultural policy because of its very thick, resistant and insulated institutional structure. The inroads for environmental reforms only opened as the previously thick CAP structures became undermined for reasons independent of the environmental policy linkage.

The second dominant factor influencing the level of EC institutionalization has been the indirect impact of *events external to the policy case*. External influences can be positive (pushing institutionalization) or negative (inhibiting institutionalization). The SEA's adoption, enlargements and the GATT negotiations combined were instrumental for the moderate environmental policy integration in the CAP. With respect to waste policy, the international/UN Environment Programme negotiations over the Basel Convention and the more recent ban of hazardous waste exports to Third World countries have decisively

influenced the EC perspective on waste as an economic good. The ban's rejection of the concept of waste as an economic good has altered the balance between economic and ecological values (Zito, 1995). The TEU, on the other hand, has interrupted the conceptualization of the economy-environment linkage in all policy areas, and hence its thick institutionalization, by re-activating the interplay of positional interests, and consequently the *ad hoc* choice of procedures and norms. Nevertheless, our cases suggest that substantial changes in the external environment (i.e., negotiations with IOs or the realization of new environmental crises) provide the hope for substantially greater institutionalization of environmental priorities and policy frames in EC policy.

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