

INTERESTS, ISSUE LINKAGE AND THE POWER OF THE
EUROPEAN PARLIAMENT

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INTRODUCTION

The European Parliament (EP), it is argued, was granted significant new powers following the institutional innovations of the Single European Act (SEA), and the Maastricht Treaty.¹ Its former institutional weakness was seen as the symptom of a serious "democratic deficit" in the European Union (EU), and the new powers as a partial remedy. This has prompted observers to try to define more precisely the way in which the EP can shape EU policy outcomes. In particular Tsebelis (1994a) has developed an elegant model which suggests the conditions under which the EP had the power to set the agenda when an issue was subject to the legislative process known as the cooperation procedure. Simply put, he shows that the EP (upon the second reading of a proposal) could set the agenda by adopting a set of amendments which some qualified majority of the member states preferred over the status quo.

This power to make a "take it or leave it" offer to another institutional player is, potentially, a significant one. However, it is also, as Tsebelis notes, "conditional". It depends upon other elements in the institutional and strategic environment. What are they? Can it be predicted when they are present, and when not? Is, therefore, the European Parliament always powerful, or rarely?

Tsebelis identifies three important elements which help determine this power: the acceptance by the commission of the EP's proposal (that is, the EP's amendments to a common position of the Council's), the location of the status quo, and the existence of multiple dimensions. Tsebelis uses an episode in EU policymaking on auto emissions control to illustrate the analytical claims he makes. His stylized account, however, does not do justice to the political forces at work. In this paper, by carefully examining this "paradigmatic" case of agenda setting by the EP, I take as problematic the three elements identified above, weaving them together in a story which accounts for the required conditions.

The explanation is a simple one. The Commission was disposed to accept the EP's amendments on a crucial piece of legislation because the member states and industry a) found the status quo increasingly unacceptable, and b) found that the EP's proposal answered one set of preferences (regulatory harmonization) over which they were united, even if it moved far ahead of other preferences (for less burdensome levels of

¹ In fact the balance of power between the institutions of the EU under the codecision procedure may not be as favorable (for the Parliament) as imagined by some commentators; see Corbett, 1994:57-58 and Tsebelis, 1994b.

regulation) over which they were divided. To summarize; the choices of the Commission were framed by the preferences of the main actors, and they reflected the trade-off that existed between the level of regulation and the degree of regulatory harmonization.

The possibility that the EP may have the power to set the agenda is not disputed, however this analysis directs attention towards the conditions of that power. I will argue in the conclusion that by accurately applying this formal scheme I give analytical support to a commonplace of neo-functionalism: rising interdependence is the underlying condition for EU institutions to set the agenda, but only when taken in conjunction with the rules governing the power to propose. That is what is most interesting. The institutional design of the EU under the cooperation procedure took full advantage of the consequences of spillover.

THE POWER OF THE CONDITIONAL AGENDA SETTER

In what follows I rehearse Tsebelis' analysis in brief, and then show how his scheme applies specifically to the emissions control episode. The discussion which follows will, of necessity, deal with this formal scheme in telegraphic form; readers are urged to consult the original for full explanations of much that will be merely asserted here below.

Under the cooperation procedure the EP may enjoy the power to set the agenda if it can make a proposal which makes some qualified majority of the member states better off over the status quo (remembering always that this proposal--in the form of an amendment to an existing piece of legislation--must be accepted by the Commission). Consider figure 1. The member states of the EU are depicted in a two dimensional space (for purposes of exposition there are assumed to be seven, not twelve; a qualified majority of the twelve, 54/76, is almost the same as a 5/7 majority under this scheme).

At the heart of the figure lies the Q core--if the status quo lies in this area it cannot be altered either by unanimity or by a proposal of the EP requiring a qualified majority. Beyond it lies the pareto surface (heptagon 1-7) in which no status quo can be altered under a unanimity rule (because some member state would endure a welfare loss). However, within the shaded area, some alternative is sure to exist which improves the welfare of some qualified majority (the shaded area is not precisely coterminous with the pareto surface). Outside this area such alternatives may, or may not, exist.

To the right I have located (per Tsebelis) the ideal points of the Commission (C) and EP (P). It might be supposed, for example, that the left/right dimension in this model represented

preferences over the level of integration, and that these supra-national institutions preferred more than the governments of the member states. The status quo (SQ) is located just outside the shaded area to the left. The heavily shaded area $U(SQ)$ is that area in which an alternative to the SQ is available which improves the welfare of all member states (it is defined by the euclidean indifference curves of the nearest member states, 1 & 2). Which specific alternative is adopted is indeterminate. The heavily shaded area $Q(U(SQ))$ is that area in which some qualified majority (in this case member states 3-7) are better off than the status quo and any unanimously preferred alternative within $U(SQ)$ (as defined by the indifference curves of the next member states, 3 & 7).

Imagine, therefore, that any proposed alternative to the status quo is subject to the cooperation procedure: this means that it may be adopted by a qualified majority, and will be proposed by the commission and EP. Naturally, the EP, aware that member states 3-7 would accept any alternative in the area $Q(U(SQ))$, proposes the alternative in that area which is closest to its own ideal point, P_p . The member states cannot amend except by unanimity, and so a qualified majority accepts this "take it or leave it" offer, and the EP has set the agenda.

So far, so good. But it is simply wrong to assume that the commission shares preferences with the parliament over many issues (I present below an account of the preferences of the commission and other important actors). Tsebelis discusses this possibility, but suggests that often it makes no difference. However, in the emissions control story it does make a difference. Consider figure 2. Here the preferences of the large and small member states are mapped on the two dimensions of degree of regulatory harmonization, and the level of regulation, as it applied to emissions control.²

This figure tells the story of an agreement over emissions control which was reached in 1985, which was widely perceived as favoring producer interests. The status quo (SQ_1) was a situation of generally low levels of regulation, and a low level

² Again, for representational purposes, I have reduced the number of member states to 7; there are 5 large member states (taking Spain and Portugal together) which have 1/7 of the votes each in a qualified majority voting system, and two groups of small member states, each group also with 1/7 of the votes. 5/7 is a qualified majority, approximating the 54/76 required in the actual council of ministers. This understates (slightly) the actual power of one of the groups of small states (and that of Spain and Portugal combined), but it is a convenient heuristic device. That group is the one with the strongest preferences over the level of emissions control, consisting of Denmark, Holland and Greece.

of harmonization. By the 1980s, however, green issues were becoming politically salient and Germany (D), among others, moved to bring about increased regulation and harmonization at the level of the EU. The commission (C) favored harmonization but low levels of regulation (as did many auto makers), as a result its proposal was even friendlier to producers than the actual outcome, SQ_2 .

In keeping with the discussion above, any movement away from SQ_1 into the pareto set was sure to increase the welfare of all, as long as it stayed within the area of the indifference curve of that state, Italy (I), with the lowest preference over the level of regulation. That is to say, a move up to and including SQ_2 would be approved unanimously. The outcome could have been anywhere in that area, the one depicted reflects that point within Italy's indifference curve closest to Germany's ideal point. In short, Germany made the minimum number of concessions necessary in order to get an outcome improving the welfare of all--which is congruent with the analysis given below of the negotiating history. In the event, perversely, Denmark rejected the agreement (this will also be addressed below), but following the passage of the Single European Act (SEA), under the cooperation procedure, the agreement was then passed by qualified majority.

In figure 3 the second part of the story is depicted. The agreement voted on in 1987 included a commitment to follow it with a new regulation for the important small car category--in other words, in this particular area, a change over the new status quo, SQ_2 , would be agreed upon. Since SQ_2 is in the shaded area, some alternative garnering the support of a qualified majority is sure to exist. However, such an alternative must be proposed. The commission, located as it was, was not disposed to accept the proposals of the EP. Indeed, SQ_2 is surprisingly stable--a qualified majority excluding Italy and the group of small member states SM_2 would be willing to shift to a new status quo slightly to the south and east. A majority excluding France and Italy would be willing to adopt a new status quo to the south and west of SQ_2 . However, the Commission would never propose such moves, as they reduced harmonization. Furthermore, no radical change would have had the support of any majority. Yet the observed outcome in this case was radical change in the level of emissions control regulation as it applied to small cars. What happened?

Simply put, the status quo migrated due to the increasing costs of the failure to harmonize, costs exacerbated by the unilateral choices of pro-regulation member states. This is depicted as a move from SQ_2 to SQ_3 . As a crucial part of the story, no doubt this smacks of ad hoc reasoning. However, I will argue below that this was a specific instance of a pervasive set of circumstances brought on by rising interdependence. In short,

the status quo, as it related to much EU rule making, was in constant motion, steadily increasing the opportunity costs of inaction. I argue that this was a crucial characteristic of the strategic environment.

Of course, once the status quo was at SQ₃, the commission's former indifference to parliamentary proposals changed dramatically. There now existed a qualified majority in favor of greater harmonization at an even higher level of regulation. Any proposal within the heavily shaded area U(SQ) would command the support of all the member states, however a proposal in the area Q(U(SQ) would enjoy the support of a qualified majority, including the small states and Spain. The limit proposal for such a majority would be, as it turned out, that point at which the parliament would pitch its "take it or leave it" proposal. At this point the parliament's proposal would be accepted not only by a qualified majority, but also by the commission. The parliament's threat to otherwise allow the legislation to die would leave all the other actors faced with the degraded status quo.

In summary, the dramatic difference in outcomes, between the agreement finally voted upon in 1987, and the small car directive passed in 1989, was due to the shared preferences of the member states for harmonization. As the cost of inaction in this issue area rose they were constrained to accept the proposals of the parliament. The commission, historically an ally of industry, was likewise constrained. With this agenda setting power the parliament was able to propose harmonization at a high level of regulation.

Next I present a redacted account of the actual negotiating history behind the agreements discussed above. I then conclude with an analysis of what patterns of issue linkage, and of shifts in the value of the status quo, are generally to be expected under conditions of growing interdependence. This should yield specific predictions about the conditions governing agenda setting by EU institutions.

THE POLITICS OF AUTO EMISSIONS CONTROL

The episode to be reported below has been addressed elsewhere (see Courcelle, 1989; Arp, 1992, and Kim, 1992). By "getting the story right", but also by informing it with the analytical scheme presented above, I will be able to generate the desired propositions. I begin with an analysis of the preferences of the actors involved. I account for the outcome in the first round of bargaining. I then explain the implications of the rule changes introduced by the SEA, and show what consequences they had for subsequent outcomes in this issue area. The account is perfectly consistent with the analytical scheme presented above, and is a firm base for generalization.

The Preferences of States and Firms

The tension that existed between harmonization and high environmental standards is at the heart of the explanation which follows. The structure of firm and state preferences was different for each of these issue areas. In environmental issues there was a wide variation in preferences across firms and across states (and high preference intensity). In issues relating to harmonization preferences more nearly converged.

While the character of the product range in which firms or states specialized was a crucial determinant of preferences, these were somewhat moderated by differences in technological capabilities across firms. Emissions control systems are an expensive addition to a car, and the smaller the car the greater the added cost of the system (when expressed as a percentage of the whole cost of the car). There were two technologies considered to be solutions to the emissions problem, which differed in important respects. Catalytic converters (CATS) represented a technology already in use in North America. They could be used to reach even stringent requirements, but they were expensive. In addition they required unleaded gasoline, electronic engine controls and made cars less fuel efficient. A different solution, "lean burn" technology, was still in the developmental stage, and was unlikely to be able to meet very strict requirements. However, it would be cheaper and would increase fuel efficiency. It was seen as especially valuable for smaller cars.

The technical arguments for and against these different approaches cannot be reviewed here. Suffice it to say that the choice would be made for political reasons. The important point is that those two firms which were especially committed to lean burn technology, Ford and PSA, as well as having a preference for moderate standards, also preferred a long "lead" time for their introduction. This would give what was an embryonic technology time to be fully realized. Of course Ford, which used CATS in its North American operations, was less dependent on this technical outcome than PSA.

Firm and state preferences are depicted in figures 4 and 5 (preferences over regulation being set against preferences for harmonization, to be discussed shortly). Those firms most dependent on their national markets--FIAT, PSA and Renault--also specialized in smaller cars. It was no surprise, therefore, that France, Italy and Spain (and the producers PSA and FIAT) were all opposed to high requirements. Italian production was made up of the highest percentage of small autos and roughly half of French production was concentrated on small and medium sized vehicles. The production of smaller autos was concentrated in Spain due to its low labor costs. Medium and small vehicles were the most intensively traded category, in which all producers went head to

head, and in which margins were smallest. It was here, therefore, that the producers were most sensitive to the impact of regulation. Without any countervailing pressures from ecological groups, the governments of France, Italy and Spain, in keeping with long established patterns of privileged treatment, were willing to faithfully represent the views of their producers.

The preferences of the British government are interesting to sift out. While the "fleet" of cars produced by firms based in Britain had a profile similar to that of France's (although with a greater emphasis on mid-sized autos), the most important producers were the U.S. multi-nationals who had to meet the higher U.S. standards. It might be assumed, therefore, that the technical hurdle of CATs meant less to them. However, their European subsidiaries were quite separate entities, with very different product ranges. Ford of Europe had worked hard on "lean burn" as a solution to emissions problems. What is more, they clearly had an agreement with the British government: the "lean burn" engines would be engineered in the U.K. and the British government would "go to bat" for it in Brussels (Wilks, 1989:181; European Parliament, 1985:17). Therefore both the British government and Ford were opposed to high standards for medium and small autos, unless the lead time was very permissive, because this would make "lean burn" an impractical technical solution.

As might be expected the German specialist producers, because they made large cars and sold many in the U.S., were comfortable with the prospect of CATs. The imposition of high standards on a European-wide basis would play directly to their competitive advantage. The main German mass producer, VAG, was also, at first, content with the prospect of CATs. The German government, as part of its negotiating position, proposed to introduce fiscal incentives to encourage people to buy cars that exceeded the minimum emissions requirements. This would have moderated price resistance among consumers. Furthermore, this tax relief was to be extended to diesel engines, to which VW had a large and successful commitment.

In the long run, on the other hand, diesels would be problematic from the point of view of the environment, for while they are economical they are also "sooty", and only second or third generation "lean burn" technology could be used for them if high emissions requirements were to be imposed. Also, VAG's preferences for high emission standards must have been somewhat moderated after the acquisition of small-car producer SEAT (in Spain) in 1986. Therefore the issue of the lead times set for placing CATs on all smaller cars would be very important for a company which was, at the same time, engaged in a massive amount of investment world wide in the late 1980s and early 1990s.

Sensitive to the demands of well-organized environmentalists, the German government had a strong interest in high environmental standards. It had led the Commission to make its earlier (very modest) proposals for a directive on emissions control and lead in gasoline (Com(84)266 final: Com(84)532 final and Com(84)564 final). The VDA (the German auto industry association) supported the German government. It reflected the interests of the specialist German auto producers, who were content to supply cars with (expensive) CATs, and Bosch, who had an overwhelming competitive advantage in Europe in the necessary electronic engine controls (Streeck, 1989:141/2). In this context, any reservations VAG might have had about higher emissions controls would have been somewhat neglected.

The smaller EC member states, of course, did not produce automobiles. This left them free to accede to the political pressures of the environmentalists, which in the Dutch and Danish case were well developed (the acute air pollution in Athens also made the Greek government very intransigent). They, therefore, were always in favor of high requirements.

In summary (see figures 4 & 5), France, Italy, Spain, and the French and Italian producers were opposed to high levels of regulation. So too was the U.K. and Ford, in order to keep "lean burn" technology as a possible outcome. GM and VAG were less seriously challenged by high standards, and specialist producers (particularly German companies such as BMW and Daimler-Benz) positively welcomed them. The German government and small member states were most in favor of higher standards.

These preferences must now be compared with the preferences of the member states over centralized harmonization. The problem, as many saw it, was that the introduction of environmental standards piecemeal, resulting in different standards in different national markets, would have two bad consequences; such standards could act as barriers to trade, and a proliferation of technical regulations would drive up the unit cost of autos by limiting the economies of scale available to firms.³ Another important element was that while the distributional consequences of emissions control regulation made it a zero-sum issue area, harmonization was more nearly a variable sum game, since it led to lower unit costs. In other words, cooperation was inherently easier in the latter case.

It would be reasonable to expect that the mass-market producers had interests over harmonization which varied depending

³ The reason being that no single model could sell in all markets, but instead short (and inefficient) production runs of a variety of special versions would be needed to satisfy each national requirement.

on the degree to which their sales were segmented by market. In fact, four out of the six preferred high harmonization. Increased harmonization would give them the opportunity to sell in all markets, while a range of different standards might put them, but not some other producer ready to meet those standards, at a competitive disadvantage. As will be seen, their respective governments reflected these preferences; even the French government valued harmonization highly, and sought both low standards and EU actions designed to centralize them. Only PSA and FIAT would accept lower harmonization, if that could mean lower standards in their national markets.

The British government was also concerned about the autonomy of each country to unilaterally introduce, or encourage, its own standards. For example, given the German competitive advantage in CATs and diesels, the U.K. believed that any incentives promoting their sale had the potential to operate as a structural impediment, or "de facto" protection (author's interview). Ford and GM, as the most regionally integrated producers, also had an interest in harmonization. In other words while high standards were objectionable, the appearance of different standards and fiscal incentives within the Community (and in the European Free Trade Area (EFTA)) was also a very undesirable outcome.⁴

While Germany had a strong preference for high environmental standards, it was also inclined to put a high value on cohesion among the member states and on regulatory harmony at the level of the EC. As a major beneficiary of intra-EC trade it was likely to place as much weight on internal openness as on high environmental standards. By contrast the small states, with no auto production, would proved to be very willing to use unilateral measures to increase emissions control regardless of the consequences of regulatory consistency.

In summary, Germany and the U.K. were the pivotal member states, and the U.S. multinationals and VAG the crucial firms in the story that follows. Their over-riding preference for harmonization was decisive; that fact that Germany set it above its preference over a high level of regulation led to a low level outcome in the first round of bargaining. The fact that the U.K. and some mass-market producers set it above their preference for low level regulation led to a high level outcome in the second round. The difference in each case, as shall be seen, was in the strategic environment and the institutional arena.

⁴ The importance of US standards was made more acute because Sweden (which exported autos in significant numbers to the U.S.) also adopted them, and other EFTA members were to follow suit. This meant that within the geographic area of Europe as many as three or more emissions standards could be applied to autos.

The Legal and Institutional Environment

Environmental regulation in the EU very often adopted as its legal basis the provisions of Article 100 of the treaty which relate to the free movement of goods.⁵ Sometimes (often at the same time) the provisions of Article 235 were also used, which is something of a "catchall" article that can be used to justify almost anything, as long a link can be made with the functioning of the common market (Vandermeersch, 1987:411). Hence the goal of EC regulation was not so much a high level of environmental protection (at least at the outset) as the reduction in barriers to the free movement of goods consequent upon divergent levels of national regulation in this area.

Secondly, the question of barriers to trade was especially sensitive in the auto industry. Some member states were fearful of unilateral choices by others in environmental matters. As noted above variation in national standards was believed to privilege some producers over others. Since "negative" integration would not result in centralized harmonization, and "positive" integration through an EU directive could only have that as its goal, the pattern of policy-making up until the mid-1980s was of increasingly centralized regulation at a low level.

Beginning in 1970 the EU set maximum standards, which meant that any auto meeting those standards could circulate freely (the standards were revised in 1977, 1978 and 1983). But each member state could also permit the sale of autos that did not meet those standards in its domestic market. Of course as intra-EC trade in autos grew, the effect was that of centralized harmonization; however the EC's standards did serve as a ceiling, rather than a floor, preventing unilateral increases in standards on a national level (Rehbinder and Stewart, 1985:376/7; Vogel, 1992:18). Indeed, as will be seen, the Commission would challenge in the ECJ a member state who wished to impose, unilaterally, higher standards.

It may be said, therefore, that the status quo at the beginning of the 1980s was characterized by "optional harmonization" at a low level (that is, with a ceiling which set an upper limit on standards, but did not prevent lower standards from being applied domestically).⁶ The agreement on new

⁵ In 1980 the ECJ affirmed that Article 100 could be a basis for environmental action in Case 91/79, Commission v. Italy (1980) E.C.R. 1099, 1106.

⁶ For a very clear discussion of "positive" and "negative" integration, and of the distinctions between various types of regulatory harmonization, including a discussion of the somewhat contradictory concept of "optional harmonization" see Rehbinder and

standards in 1985 reflected the pattern of increasingly centralized harmonization at a low level.

Agreement at Luxembourg

On March 6, 1983, in the German federal elections the Green party obtained 5.6% of the vote, passed the 5% threshold required by the Germany's electoral system and entered the Bundestag for the first time.⁷ The new Free Democrat (FDP) and Christian Democrat (CDU/CSU) coalition government moved suddenly to improve its "green" credentials. At the beginning of 1984 (without the customary consultation with industry typical of German regulation) the government demanded that cars be required to meet US emissions standards by 1985.⁸

This radical departure resulted in a nasty and unusual public dispute between the VDA (the German auto industry association) and the ministers of the interior and the environment, a dispute which was costly for the VDA's public image and political credibility (author's interview). What was more embarrassing was that the technical problems of operating CATs at the high average speeds common in Germany proved much easier to surmount than had been anticipated. At the moment when the German industry minister Bangemann (future Commissioner of DG III) was compromising Germany's proposed regulation in favor of European-wide regulation at Luxembourg, the German auto industry performed a political turn worthy of its best products and became supporters of US 83 standards, with specialist producers being in the forefront.

It was these developments in Germany that were to give impetus at the European level to serious emissions control regulation, which resulted in what has been called the "Luxembourg agreement" (not to be confused with the well-known "Luxembourg compromise"). In this agreement Germany proved to be the crucial player. It had encouraged the Commission to make its proposals, and it made enough concessions in order to obtain a compromise, one that clearly tended to the interests of the mass

Stewart (1985).

⁷ It is interesting to note that an element contributing to this victory was state funding for party activities, which first became available to the Greens when they participated in the European Parliament elections in 1979 (Hülsberg, 1988:122).

⁸ These standards came to be referred to as US 83 (being the federal standards for 1983). The debate that followed in Germany and through out Europe in the 1980s was framed in terms of these and subsequent U.S. federal regulations.

market producers.⁹ On the other hand it did obtain a concession for itself, the agreement on a program of introducing unleaded gas on a European-wide basis (necessary in any event for cars with CATs).

Automobiles were divided into three categories based on engine size, and different emissions levels and target dates were set for each (new models, which could have the requisite controls introduced at the design stage, had shorter deadlines than new cars from existing models). As can be seen from the deadlines imposed on medium sized autos, time enough was granted for lean burn engines to remain viable. Another crucial feature of the agreement is that for small cars there were to be two stages, with a second standard to be decided upon at a later date. This element of uncertainty was to frustrate the producer interests, who were now aiming at a "moving target". As the Single Market program gathered speed, and the value of regional integration grew, the cost of inaction in this area would also grow.

The Luxembourg Agreement
Directive 88/76/EEC

| Category | Implementation Dates (new models/new cars) | Emissions Standards (grams/test) |
|------------------|--|--|
| > 2 liter | 1.10.1988/1989 | CO 25; HO+NO _x 6.5 NO _x 3.5 |
| 1.4 - 2 liter | 1.10.1991/1993 | CO 30; HO+NO _x 8 |
| < 1.4 liter | 1.10.1990/1991 Stage 1 Stage 2 to be decided later (before end 1987) | CO 45; HO+NO _x 15 NO _x 6 |

The goal of true harmonization remained elusive, for the standards were only voluntary. Countries were permitted to keep lower standards domestically, even if their producers had to adhere to higher standards when trading in other European markets. EC regulation continued to serve as a (low) ceiling rather than a universal requirement.

Environmentalists and the small, clean member states were very disappointed by the outcome. Denmark, in the event, refused to agree to the compromise and "reserved" its position. In other

⁹ While the final standards were well short of US 83 levels, they were tougher than those proposed in the Commission proposal (COM (84) 226) (see the Sherlock Report, European Parliament Doc. 2-1149/84/fin.). This indicates the industry friendly tendencies of the Commission.

words, it blocked the measure for the next two years because such a directive needed unanimity in the Council of Ministers to become law. The agreement was passed only after the SEA was in place, at which point Denmark became the first country forced to submit to the preferences of a qualified majority. But, as will be discussed below, this proved to be a Pyrrhic victory, for the SEA also introduced rule changes that were to work to Denmark's advantage.

It is puzzling why Denmark preferred a two year delay, during which earlier (much weaker) standards remained in place, to the compromise that was immediately available. It was a clear improvement over the past (however inadequate), and if figure 2 is to be believed should have enjoyed unanimous support. One of Denmark's arguments in the next round of bargaining was that because of slow turnover in the stock of vehicles on Danish roads (due to the severe tax burden laid on autos) Denmark needed standards sooner rather than later (Kim, 1992:18). The Danes may have anticipated either that changes popular sentiment, or future institutional changes in the EC, would work in their favor and so it would be worth waiting. Another, more intriguing possibility is that they anticipated the rising costs of uncertainty, and made every effort (then and later) to foster it, in the knowledge that it would increase the agenda setting power of allies in the parliament (although such allies were not in control at that time, as the discussion below reveals).

Apart from the environmental interests, sentiment in favor of the compromise was widely spread, as is revealed by testimony before the European Parliament's (EP) Committee on Economic and Monetary Affairs and Industrial Policy (European Parliament, 1985:2-19). The main anxiety expressed by Ford, GM and the Comité de Constructeurs d'automobile du Marché Commun (CCMC), the transnational industry association, was that the agreement failed to reduce the fragmentation of standards in Europe. They also all felt that the standards were too demanding (naturally). However, Germany had agreed to keep the value of fiscal incentives well below the cost of CATs, and the Dutch and Danes did not, in fact, pursue their own incentive schemes until after the institutional environment had been altered by the SEA. It is fair to say that the compromise was a move (albeit it an imperfect one) towards centralized harmonization at a low level, and that producers and member states had strong preferences over such harmonization.

Overall, the major producing countries and the mass-market producers were able to act in concert to limit the regulations imposed on mid-sized and small vehicles. This reflected nicely their general interest in harmonization and emissions control discussed above. In particular Germany's willingness to come to an agreement with its major partners indicates the relatively high value it placed on harmonization, which is in keeping with

the importance of exports for its producers. The higher standards imposed on large vehicles, for which Germany may have had a strong preference (being sensitive to the claims of the VDA and its specialist constituents, who saw in them a technical advantage) were less controversial for economic reasons. In short, this round of European level regulation was "produced by the bosses" (interview, Dr. Glatz, Daimler-Benz, 10/6/92). For environmental interests and the small member states no institutional avenues were available to change the outcome. A small state only had the power to block such regulation with a national veto (which meant accepting the low regulatory levels of the status quo).

The Single European Act and Environmental Regulation

In this section I will show how the institutional changes of the SEA had significant consequences for the ability of the member states to accomplish regulatory harmonization. Simply put, these changes made unilateral actions by some of the member states much easier, and so gave added impetus to the changing character of the status quo. The Luxembourg agreement, in as much as it was a move to centralized harmonization, was doomed to be eroded from the moment it went into effect as a result of the changes discussed below.

As noted above, Denmark was out-voted in the Council of Ministers as soon as the SEA came into force. The Luxembourg agreement was approved as a directive based on Article 100 of the Treaty of Rome (the free-movement of goods). But under the terms of the SEA there were new, specific provisions for environmental legislation where none had existed before. Furthermore Article 100 itself was to be modified in significant ways in order to address the concerns of some member states (notably Denmark) over the environmental consequences of the 1992 project (what follows relies, in part, on Vandermeersch, 1987).

The SEA inserted a new Title VII, called "Environment", into Part Three of the treaty, the new provisions being numbered 130R - 130T. This granted the environment a place in the treaty all of its own for the first time. Yet the agreement at Luxembourg, of course, was not passed under the terms of these Articles, and nor were further regulations proposed under them. The second stage in emissions control, proposed by the Commission in July 1987, was still characterized as an internal market measure, and therefore subject to the terms of Article 100. But there had been important additions to this Article in the SEA. The best known, of course, relate to the introduction of qualified majority voting for internal market issues, and the role of the cooperation procedure. But there were also important additions relating specifically to environmental matters. In Article 100A(3) it is stated that "the Commission in its proposals ... will take as a base a high level of protection". It is not clear

what a "high level of protection" means, but it is evidence that the member states wished to check any tendency for directives aimed at completing the internal market to give environmental regulation less weight.

A more important addition to the treaty is Article 100A(4). The implications of this article are significant enough that it is worth reproducing here in full.

If, after the adoption of a harmonization measure by the council acting by a qualified majority, a Member State deems it necessary to apply national provisions on grounds of major needs referred to in Article 36, or relating to protection of the environment or working environment, it shall notify the Commission of these provisions.

The Commission shall confirm the provisions involved after having verified that they are not a means of arbitrary discrimination or a disguised restriction on trade between Member States.

By way of derogation from the procedure laid down in Articles 169 and 170, the Commission or any Member State may bring the matter directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in this article.

This Article was agreed upon at the highest level in bargaining over the SEA (Moravcsik, 1991:43-44). While it seems to confer power, in the last instance, on the ECJ, that institution can only act at the behest of others; monitoring occurs on a combined self reporting/fire alarm principle. The Commission, historically, has proved reluctant to bring states before the Court on matters of compliance; when and where it does being a strictly political question. Article 100A(4) does also allow for other member states to bring suit (in what is an accelerated procedure). However, it is very likely that the Court would look on the Commission as plaintiff with much greater favor than on a member state, who might be suspected of harboring a strictly parochial interest in the outcome rather than the interest of the community as a whole.

It has been argued strenuously by Krämer (1987) that this provision only protected relatively high national standards from being eroded by centralized harmonization at a low level. It was not an opening for the introduction of new regulations at a national level. He reads the Danish declaration at the end of the treaty as supporting this claim. The opposite is clearly the case: the bargaining behind this clause suggests that it is a weakened form of national veto (an "escape clause" for opting out), and the declaration by the Danish government is no more than its attempt to make clearer the meaning ascribed to it. The

Danes observed that "... the provisions of Article 100A(4) guarantee that a member state can apply national provisions...". In the event the Danes did more than have their opinion recorded, they also acted. In June, 1987, Danish officials announced that they would seek permission from the Commission to apply higher emissions standards than those in place generally in the community.

Article 100a(4) presents a conundrum in the context of the SEA. The treaty was a framework for completion of the internal market, the qualified voting provisions of Article 100A(1) were a crucial element in that framework. Only with a mechanism of that kind could the difficulties of intergovernmentalism be avoided. The agreement on emissions at Luxembourg had been subject to such difficulties for nearly two years. However, the escape clause in 100A(4) surely eroded the possibility for harmonization, at least in environmental matters. In effect, these particular provisions of the SEA moved policy outcomes away from centralized harmonization and towards a patchwork of regulations across Europe. For countries with a weak preference for clean automobiles and a strong preference for regulatory harmonization, this was the worst possible outcome.

The decisive factor in what followed was that the small, clean countries were now able to pursue their own course unilaterally. This required no interstate agreement and was not subject to the perils of intergovernmentalism. Judicial constraints could be placed upon it, however that was subject, effectively, to the discretion of the commission and its estimates of the prospects for success through such legal remedies. Therefore in the bargaining over the next stage of emissions control regulation the crucial choice for the actors involved was whether they were willing to accept high levels of regulation as the price for regulatory harmonization, as uncertainty and the prospect of greater disharmony raised the costs of inaction. The preferences imputed to the states and firms above suggested that they shared an interest in harmonization, but were divided over emissions control. This was the ultimate determinant of the observed outcome.

New Standards: The Commission's Proposal

In February, 1988, the Commission sent a proposal to the Council of Ministers for a new set of standards for small cars. This being the second stage mentioned in the earlier agreement (what follows relies in part on Kim, 1992). The levels suggested were for 30g of CO and 8g of HO+NO_x, to be implemented on 1 October, 1992, for new cars, and on 1 October 1993, for new models. In effect the standards for medium sized autos were now to be applied to small autos. The standards were also to remain optional (i.e. they represented a ceiling). While they were an improvement they still permitted the use of "lean burn"

technology (although relatively expensive electronic engine controls would be needed).

This proposal was, in effect, as friendly to the industry as was possible given the increasing political salience of environmental questions. In 1987 the Greens in Germany had increased their share of the vote to 8.3% (in one state government, Hesse, they had already entered into a governing coalition). By 1986 protecting the environment and fighting pollution ranked third overall among Europeans as a priority issue for debate in the European parliament (in Germany and Denmark it ranked first) (Eurobarometer 25, table 42, June 1986). The Dutch government had chosen green issues as the basis for a major political offensive (Financial Times, 14/10/88:2).

To understand why these proposals were relatively lax it is necessary to understand the way the commission's preferences were formed. The discussion that follows will show how cohesion within the industry (or its lack) had a decisive effect on the position taken by the commission. It was at the core of the process as an actor because it had the power to propose, or, as I have discussed at some length, the power to accept or reject the proposals of others. Furthermore its representatives chaired the technical committees, which was also a source of significant power (see Eichener, 1991:50-53). Yet the Commission was itself an arena for political struggle, within which national and interest group representatives participated. The Commission was relatively small and lacked the institutional capacity to make expert choices or develop an autonomous position where the issues are complicated and technical. It therefore relied on outside sources of information, and actively solicited the participation of industry.¹⁰

This pattern of industry involvement was repeated in the technical committees of the Council, although by the time a proposal had got that far no completely new arguments or positions were considered, the "bracket" of possible outcomes was already set (the last "plastic" moment was at the level of "Chef du Cabinet" within the Commission). Making preferences known at an early stage was crucial, which was why the auto producers were generally perceived as very influential in Brussels. They were involved in the very beginning of the process, and stayed involved at every stage. This involvement was informal as much as a question of sitting around a table. Everyone was in constant touch with everyone else, and position papers and confidential documents circulated at a high speed in a process described by some as 'anarchic', by others as 'opaque'.

¹⁰ This discussion relies on a variety of interviews with officials and interest group representatives in Brussels.

The discussion above shows how the level of coordination amongst groups of member states and the firms concerned was a vital determinant of the commission's position. In its absence, or in the event of a break-down, the Commission found it difficult to take a position, and when that happened the opportunity arose for the political arena to widen. Given that the auto industry had nearly always succeeded in presenting a united front, chiefly through its transnational association (the CCMC), the tendency of the commission to look after the interests of the industry was to be expected. The divisions between the member states in the council had always been resolved on the basis of an initial proposal shaped in important ways by the auto producers themselves. However, the industry was to be deeply divided over the issue of emissions control, as were the member states. These divisions over emissions control, and firm and state cohesion over harmonization, were to be reflected in the position taken by the commission, which was to prove decisive for the outcome.

Small States Respond

The low level of the Commission's proposal led Holland into a confrontation with the Commission and other member states. On July 19, 1988, it notified the Commission that it was going to begin a program of fiscal incentives that would encourage consumers to buy automobiles with CATs. The commission at first asked Holland to suspend its regulation while it was evaluated. Subsequently the threat of Dutch fiscal incentives was to play a significant part in the bargaining over standards for small autos. While the Danes had threatened to do the same, and the Germans were also interested in introducing fiscal incentives, it was Holland which was to be first to be taken before the ECJ.

Meanwhile, in the council the German, Dutch, Danish and Greek delegations at first formed a blocking minority opposed to the commission's proposals. It was felt that they would still not bring Europe up to US 83 standards. In the technical working groups of the Council which considered these proposals the German, Dutch, French and British delegations were the most active. The British had suggested an alternative even weaker than the Commission's proposal, that was backed by the French, Italians, Spanish and Portuguese (Kim, 1992:10-12). However, the significant development, as it was at Luxembourg in 1985, was the movement of Germany away from its opposition to the Commission's proposal. It renounced fiscal incentives on the condition that the norms adopted would not be final. In the end the Commission was to promise a proposal for a "third stage" of reductions, to be agreed on before the end of 1991. By the beginning of July the council had approved the commissions's proposal by a qualified majority, which now had to be sent to the parliament for its first reading.

Industry in Disarray

However, before that happened the French government disowned its own environment minister, Lalonde, and rejected the compromise. This dramatic turn was perceived to be a response to intense lobbying by one of the major French producers, PSA, under its controversial chairman Jaques Calvet. Indeed the position of PSA was to put both the French government and the producer's association in a very difficult position at a critical moment.

What was PSA's objective in lobbying the French government so intensely? The French government gave as its reason for abrogating the agreement the announced Dutch intention to introduce fiscal incentives for encouraging the strictest emissions requirements, regardless of the other member states. This made it likely that some others would follow suit (unless a ruling from the court could be obtained).

This provoked a crisis in the ranks of the producers. A firm such as VAG, for whom harmonization was a very important issue, saw it being sacrificed in a (hopeless) attempt to block a compromise which had the backing of a powerful majority of member states. Of course the two US multinationals were not even members of the industry association, while specialist producers of large autos (such as Daimler Benz), for whom the stakes were not important, were much more influential. It was very difficult for the industry to cooperate over environmental issues, even without taking into consideration the institutional peculiarities of their industry association.

The timing of this crisis could not have been worse; it occurred at the moment when the terms of the Cooperation Procedure now granted the European Parliament the power to consider and amend the proposal.

First Reading in Parliament

The report by the Committee on the Environment, Public Health and Consumer Protection proposed radical amendments to the Commission's proposal: 20g CO and 5g CO+NO_x per test (Doc A 2-0132/88). It was adopted by the Committee 16-10, with one minority holding that the report went too far, and another that it didn't go far enough. An interesting element was the change of opinion by consumer's representatives. In 1985 they had supported lean burn as an economical solution to the problem of emissions, by 1988 they became persuaded that CATs were the only immediate solution to the problem of costly pollution (Doc.A 2-0132/88:13). Lean burn enjoyed some support in the debate that followed, but the crucial factor seemed to be the demonstration effect of US 83 standards, which were already in place not only in the US, but also in Sweden, Switzerland and Austria (which country had threatened to boycott French cars after France withdrew from the Council agreement) (Debates of the European

Parliament, 13/9/88: 84,85; International Environment Reporter, September, 1988:491).

Clinton Davis, the Commissioner for the Environment, rejected the Parliament's amendments summarily. His reasons are illuminating. First he feared that such amendments would break up the consensus that had been reached in the Council over the Luxembourg agreement; he observed that he was in the process of coaxing the French into cooperating once again. He went on to say:

"... if we fail to adopt [this proposal] within the next few months member states will be tempted to apply their own measures and that could well lead to a fragmentation of the market, to protracted litigation and, worst of all from the point of view of an industry that needs to advance on this front, uncertainty about the future parameters of policy..." (Debates of the European Parliament, 13/9/88: 88-89).

He clearly valued harmonization, and he was doubtful of the Commission's ability to ensure it through the courts. This undoubtedly signaled to the parliament that the status quo was becoming less and less acceptable, and the current uncertainty more and more costly. He went on to say that the Parliament's proposal would eliminate lean burn as a possible technical choice, and impose excessive costs on industry. On the whole, this position was one aimed at pushing through a proposal which would, at one and the same time, foster cooperation in the Council and limit unilateral policies by individual states.¹¹ The crucial change by the time of the second reading in Parliament was that it became apparent that these two objectives could no longer both be accomplished at a low level of regulation.

The proposal returned to the Council, where every effort was made to recapture the support of the French, while retaining the support of the Germans. This was accomplished by the Commission when it agreed (reluctantly), at the urging of the French, British and Italians, to take the Dutch government to court. It then also agreed to introduce proposals for a "third stage" of reductions in emissions before the end of 1991. Holland, Denmark and Greece were, again, outvoted by a qualified majority.

The Dutch fiscal incentives were introduced on January 1, 1989. On January 10 the Commission, using its powers under Article 93 of the Treaty, ordered the Dutch government to suspend the plan, pending investigation, which it was going to conduct on

¹¹ The only amendment the Commission did accept was the first, which called for the necessity of abolishing different regional and national provisions relating to emissions.

the basis of Article 30 as well as Article 93 (International Environment Reporter, March, 1989:112). Article 30 relates to restrictions on trade, while Article 93 applies to state aids. It would seem that the Commission had a better case if it were based on trade restrictions as opposed to state aid. After all, while there were significant investments in commercial vehicle production in Holland, there was much less in the way of auto assembly (mainly a small Volvo plant). However, only by invoking Article 93 could the Commission order Holland to suspend the rule. The Dutch government then applied to the ECJ for an immediate decision against the Commission, arguing that it was not yet proven that the regulation was against European law. By July officials in Brussels were openly admitting that the court case had been instituted for "blatantly political" reasons, and legal experts doubted that they could convince the judges of the ECJ (Financial Times 5/25/89:3).

Second Reading in Parliament

At the beginning of April, the Parliamentary Committee of the Environment, Public Health and Consumer Protection, had issued its second report on the emissions proposals for small cars (Doc. A 2-26/89). In it all the amendments rejected by the commission and the council at the end of 1988 were proposed once again. On the eve of the parliamentary debate Ripa Di Meana, in consultation with Delors and Transport Commissioner Karel van Miert, decided on a turnabout in the Commission's position (Kim, 1992:13). The Parliament's proposals were going to be accepted. How can this be explained?

Ripa Di Meana's role as political entrepreneur was an important one, no doubt he was aware, as were all the other actors, of the rising tide of public sentiment in favor of environmental issues. However, the crucial point was that failure to move to high standards was likely to increase divergent national patterns of regulation, as a dissatisfied minority of member states introduced unilateral measures and sought to fight it out in the court. In this regard the position of Germany was crucial. There is evidence (see below) that it was shifting away from the hard won compromise, and might now be willing to set its own standards to US 83 levels without waiting for the Community. The question of harmonization was also most likely to weigh heavily with Delors. His name was associated above all with the internal market program, and its completion had to be his priority. Given that the status quo meant its delay in a very high profile sector, it is no surprise that he would prefer, instead, harmonization at a high level.

The bottom line was that parliament threatened to reject the commission's proposal, unless the Commission promised to accept its amendments, which then would have required unanimity in the council to be re-installed (Jacobs and Richard, 1990:170). Of

course this threat would only have thrown the industry and the commission into disarray if the status quo was unacceptable; its power, and the power of the parliament, depended on the "migrating" status quo.

In short, therefore, taking into consideration the rise in environmental sentiment, the element which must be added to the story of parliament as a conditional agenda setter in this case is the tyranny of the new status quo after the passage of the SEA. The agreement at Luxembourg represented (some) harmonization at a fairly low level. This was a good outcome for a qualified majority of the member states and for the industry. But the SEA fostered change in the status quo in a decisive way, the new status quo meant no harmonization. In that event, for the commission, and for a critical number of the member states and the industry any harmonization was to be preferred to none.

The industry, as described in the discussion above of PSA and its colorful chairman, was in disarray. None of the choices before it were very palatable, and its ability to speak with one voice was being held hostage by one recalcitrant member. The situation of Ford (although it was not a member of the producer's club at that time) is illuminating. It had made a significant commitment to lean burn technology. However, the concession by the commission to Germany, promising a "third stage" in reductions, guaranteed that small car standards would be raised too high too quickly for anything but CATs to be effective. On the other hand, as a highly regionally integrated producer it also had a very strong preference for harmonization. For it too, and for others such as VAG, the post-SEA status quo, together with continued uncertainty about future standards, was unacceptable. The issue of harmonization was one on which there was much more industry agreement than the issue of emissions control. Finally, high level standards were more likely to be acceptable now than at times in the past because of the recent boom in auto sales.

For these reasons the turn by the commission was not actively opposed by the industry, nor was the re-examined proposal (that is, a proposal to which the commission has accepted parliamentary amendments) voted down once it was submitted to the Council in June, 1989. In the event the Council adopted somewhat "greener" standards than those proposed by the commission and parliament. US 83 standards were to be introduced in 1992 (a year earlier for new models than the proposal) and were to be mandatory (in other words, true centralized harmonization rather than a ceiling), and the "first stage" standards, due in 1991, were dropped (this gave the industry more leeway in the period prior to introduction). This "greener" outcome at the level of the Council reflected the high salience of harmonization. This issue clearly came to dominate the agenda, reflecting not only the preferences of a core group of

the member states, but also of those of some of the producers; this preference for harmonization could only be realized by a high level of regulation. The "power" of the parliament as an agenda setter merely reflected this constellation of political preferences in the context of an unacceptable status quo.

CONCLUSIONS

The escape clauses over environmental issues introduced by the SEA accelerated the increase in costs associated with failure to harmonize. However, the underlying process persisted, regardless of the rule changes. As interdependence grew, and the market for autos in the EU moved towards radical integration, the costs of delay and of regulatory fragmentation grew. These clauses in the SEA merely gave some member states the legal option of accelerating that process by unilateral action.

I argue that this migration of the status quo is a form of spillover. If the concept of "spillover" is to have any precise meaning, it is along the following lines: interdependence grows as a result of inter-state cooperation designed to realize mutual gains--for example through the lowering of trade barriers. As this interdependence grows, the value to these states of cooperation in other areas also grows, as does the opportunity costs of failure to cooperate. In other words, spillover is when change in one issue area degrades the status quo elsewhere, and so brings about pressure for change there as well.

Scharpf (1988) showed how this kind of process under unanimity led to perverse outcomes, such as the CAP. The status quo will continue to degrade until it falls out of the pareto surface. The power of the conditional agenda setter is the alternative (under majority rule) to what he called the joint decision trap. It is when an actor's power to propose winning alternatives to the status quo increases as that status quo migrates within the pareto surface.

Take, for example, the M & A regulation, finally adopted by the commission in the late 1980s. First proposed in 1973, it sat on the agenda for fifteen years. The member states had very different views on what an EU merger control regime should look like, and different existing practices. However, by the late 1980s pressure for change was considerable, pressure from the commission, to be sure, but above all pressure from major European firms. Following the SEA there was a dramatic rise in mergers and acquisitions activity. However, this occurred in a very uncertain legal environment. The joint bid by GEC and Siemens for Plessy, for example, had to be cleared with several national bodies, inside and outside the EU, as well as with the commission. As the level of activity rose, so did the costs of this uncertainty, and the benefits of doing something about it. In short, the M & A regulation, so long desired by the commission

and so long opposed by the member states in council, was finally passed when the major industries of Europe became united in favor of it, and their interest was fostered by the success of the internal market project, and the increasing inadequacy of the status quo in the area of anti-trust. Under these circumstances the commission could set the agenda in the face of opposition from its principals, the member states.

What is fascinating is what this suggests about the institutional innovation of the cooperation procedure. I argue that it is a system of rules which permit transnational institutional actors, as agenda setters, to accomplish their own goals by linking them to issues (typically internal market issues) in which the existing status quo has become unacceptable. In short, the cooperation procedure was designed to give power to these actors where spillover occurred--the underlying condition which gave the power to set the agenda to the parliament and/or the commission was the spillover from the integration process.

If this is so, what should be expected when the treaty came up for revision at Maastricht? Two interesting things occurred: the commission resisted strenuously any attempt to be stripped of its power to accept or reject proposals by the parliament (under the new codecision procedure)--clearly it did not imagine that these two institutions were of one mind. Also the council was now in the position of being, in the last instance, the one to make a "take it or leave it" proposal to the parliament in the conciliation committee (see Corbett, 1994:57-58, and Tsebelis, 1994b). In short, the power of the parliament to set the agenda was not expanded at the expense of the commission, and may have been limited by new powers for the council.

This suggests that while spillover as an inevitable consequence of interdependence could not be "repealed", at least its effect on the power of the parliament could be moderated. But the implications may be greater than that--if the member states have put the council in the position of making "the take it or leave it offer" under conciliation, then spillover will grant increased institutional power to the most intergovernmental element of the EU. When the status quo migrates, those actors with a preference for limiting, rather than expanding, the integration process, will enjoy greater institutional power.

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FIGURE 4

MAP OF MEMBER STATE PREFERENCES

Harmonization



