

INSTITUTIONS MATTER.

**AN INSTITUTIONAL PERSPECTIVE ON DECISION-
MAKING CONFIGURATIONS IN THE EU.
THE CASE OF THE PACKAGING AND PACKAGING
WASTE DIRECTIVE**

Peter Bursens

**Department of Political and Social Sciences
University of Antwerp (UIA)**

Universiteitsplein 1

B-2610 Antwerp

Belgium

Tel: + 32 3 820 28 69

Fax: + 32 3 820 28 82

Email: bursens@uia.ua.ac.be

**Paper to be presented at the ECSA Sixth Biennial International Conference
(Panel 'Institution Building and Change')
Pittsburgh, PA, June 2 – 5 1999**

'Institutions Matter'

An institutional perspective on decision-making configurations in the EU. The case of the Packaging and Packaging Waste Directive

1 Introduction

The European integration process has transformed the European Union (EU) into a unique constellation, compared both to national states and to other international organisations. The EU as a political community can be placed somewhere along a spectrum with federal states and traditional international organisations as ideal-typical far-ends. Defining the EU as a political community implies that not only the degree of integration but also the contents and the genesis of European policy itself become legitimate research topics.

The *integration issue* can best be examined by *International Relations* theories and more in particular by their spin-offs which are especially developed to understand the cleavage between states who are in favour of sharing more competencies and states that are in favour of a status quo. This sub-field of European studies tries to unravel why and to what extent states are willing to share sovereignty with other states. It also tries to predict the eventual shape of the European construction. Scholars examining the *policy-making issue*, on the other hand, presume that the EU has developed into something more than a traditional international organisation because it has also created a political arena of its own which is not dominated by the integration cleavage but by more classical domestic-like cleavages such as the traditional economic left-right dispute. International Relations theories are to a large extent confined to the integration issue and are therefore not the most appropriate approaches to study decision-making patterns and policy outcomes of the internal European political arena (cf. Caporaso, 1995: 55-56; Hix, 1994: 23; Mazey, 1995: 341-342). The study of European decision-making and policy-making, on the contrary, can best be guided by *Comparative Politics* approaches, which are especially constructed to analyse the process of decision-making. These Comparative Politics approaches, however, must be complemented by a multi-level governance perception of the EU to take into account the special position of the member-states in the policy-making process (cf. Grande, 1996; Jachtenfuchs, 1997; Marks et alii, 1996).

This paper examines the preferences and the strategies (and the resulting interaction patterns and organisation structures) of actors that participate in regulative decision-making within the first pillar of the EU. Following the above made distinction between integration and policy-making, answers will be sought by using Comparative Politics approaches. The main hypothesis is that preferences and strategies of both private and public actors are to a large extent shaped by the institutional context they operate in. To test this hypothesis, a two-step research strategy was set up. First of all, this paper examines whether, and if so which, institutional variables are relevant to explain decision-making patterns. Secondly, and this will be the main part, it explores how

institutional variables influence preferences and strategies of participating political actors. The latter will be illustrated by the Packaging and Packaging Waste-Directive. The paper ends with the presentation of a neo-institutionalist model which can help to understand preferences and strategies during decision-making in general.

2 Are institutional variables important to understand the development of decision-making configurations?

To answer this question, an extensive empirical research was set up¹. Methodological constraints of comparability confined the research to law-making cases in the first pillar of the EU. A theory and method guided selection identified three policy-domains and nine cases.

<i>Case</i>	<i>Official Journal</i>
<i>Agricultural Policy</i>	
Reform of the Market Organisation in the Rice Sector	L 329 (30/12/95)
Reform of the Market Organisation in the Dried Fodder Sector	L 63 (21/03/95)
Sugar Prices 1995/1996	L 148 (30/06/95)
Fruit and Vegetable Prices 1995/1996	L 148 (30/06/95)
<i>Environmental Policy</i>	
Noise Emissions of Building Machinery	L 136 (18/07/95)
Emissions of Large Combustion Installations	L 337 (24/12/94)
Packaging and Packaging Waste	L 365 (31/12/94)
<i>Social Policy</i>	
Safety and Health Prescriptions at Work	L 335 (31/12/95)
European Works Councils	L 254 (30/09/94)

Table 1: policy domains and cases

The dependent variable was defined as the set of interaction patterns that has been developed during the decision-making processes that lead to the adoption of the nine directives and

¹ This paper is inspired by the author's Ph. D. dissertation which dealt extensively with both research questions. Although focusing on the processes and mechanisms through which institutional variables work in order to present the neo institutionalist model, it is necessary to concisely discuss the research strategy that was used to identify the relevant variables. A more elaborated report of this identification process can be found in the dissertation itself (Bursens, 1999).

regulations. In order to explain these configurations, it was, however, necessary to create a tool to describe these configurations.

2.1 Describing EU-decision-making configurations

In this respect two questions had to be answered. Firstly, how can interactions between private and public actors during the decision-making procedures best be described and, secondly, how do these configurations look like when they are described by this particular tool?

The answer to the first question is a theoretical one. It is argued that two different models can be used to describe interactions between public and private political actors: the neo-corporatism – pluralism spectrum on the one hand and the policy network approach on the other hand.

The 1980's witnessed a fierce debate between supporters of *neo-corporatism and pluralism*. One of the conclusions of this debate was that neo-corporatism can only challenge pluralism on empirical grounds but not on theoretical grounds. However, just because pluralism and neo-corporatism empirically expect different interactions, they can be considered as the ideal-typical far-ends of one spectrum. Moreover, cases can be defined as occupying particular positions on this spectrum. It was therefore possible to merge both models into one tool which enables detailed descriptions of decision-making and interest representation patterns². Description of the cases is mainly carried out by means of variables that analyse the mutual relations between the participating actors.

The neo-corporatism – pluralism spectrum has, however, been repeatedly the subject of heavy criticisms from *the policy network approach* which presented itself as an alternative to the neo-corporatism – pluralism spectrum (cf. Smith, 1990 & 1992). Despite the many differences between both models, the policy network approach could also be transformed into a spectrum with two ideal-typical far-ends: a policy community on the one side and an issue network on the other³. Overall, the policy network approach can be seen more as a complement than as an alternative to the neo-corporatism – pluralism spectrum. The approach can be used to deliver additional descriptive variables and can thus to facilitate a detailed description. Moreover, it was possible to combine both approaches into one powerful tool to describe European decision-making configurations. The development of this instrument was the answer to the first question of this part of the research. This 'European' tool consisted of five categories, each containing several variables, which allowed to place the cases on a new spectrum reaching from loose to tight configurations. These five categories were:

² This neo-corporatism – pluralism tool was mainly inspired by the 'founding fathers' Schmitter (1979) and Lehbruch (1982). Gaps were closed by adding own variables and by using those of other authors such as Hoeffler (1994) and Wilson (1983).

³ The policy network spectrum was mainly constructed by using variables from Rhodes and Marsh (1992) and Van Waarden (1992).

- relations among interest groups
- involvement of decision-makers in the of interest groups' day to day functioning
- relations between interest groups and decision-makers and the involvement of interest groups in the decision-making process
- strategies of the interest groups
- features of the actor-configuration

In total, 50 variables were used to describe the nine cases. This description itself was based on interviews, official documents and secondary literature⁴. In the end, the 9 cases could be identified as loose or tight configurations. A tight network is mainly defined by a stable group of public and private actors with tight mutual relations, while a loose network refers to an open and changing network with loose and informal contacts among the involved actors. 5 configurations were found to be tight (the 4 cases from agricultural policy and the European works councils case from the social policy domain) and 4 cases were found to be loose configurations (the 3 cases from environmental policy and the safety and health case from the social policy domain).

2.2 Understanding decision-making configurations

The explanatory part of the research was set up to identify the variables that influence preferences and strategies of actors and hence also the development of loose en² tight configurations. The core hypothesis was that preferences and strategies are to some extent shaped by the institutional context. In order to identify these institutional variables, the neo-institutionalist approach was adapted to the research question and the research object. The neo-institutionalist approach itself is the result of successive steps within the field of political science (Hall, 1996; Thelen, 1992). Until the 1950's and the 1960's political science was dominated by descriptive studies of formal organisations and institutions, such as parliaments and bureaucracies. A reaction against this 'old-institutional' approach was initiated during the 1960's and the 1970's by the behaviouralist and rational choice approaches who pushed institutions aside and who exclusively analysed the observable behaviour of rational actors. During the 1980's, neo-institutionalists renewed attention for institutions, but in stead of exclusively focusing on formal en hard institutions they also incorporated informal and soft institutions. Neo-institutionalist authors aspired to build explanatory models based on the correlation between preferences and strategies on the one hand and institutions on the other.

⁴ The empirical work is based on 77 interviews with public actors (functionaries, politicians, diplomats) as well as with private actors (interest groups and lobby-groups). Decision-makers were asked to describe their own role and the role of other decision-makers during the decision-making processes. Their opinion was also asked with respect to the involvement of private actors: who has been involved, whom have they had contacts with, what kind of contacts (frequency, mutuality, initiative, ...). Other questions discussed formal and informal relations among the decision-makers themselves and the institutionalised consultation procedures. Interest groups were interviewed with respect to their own role in the decision-making process, their interactions with other involved interest groups, and with decision-makers. The latter aspects were discussed for each part of the decision-making institution and for each step in the decision-making process. By partly asking the same questions to both categories of respondents, the validity of the answers could be checked.

The neo-institutionalist tradition falls apart into rational choice, historical and sociological neo-institutionalism. The main difference between these variants is situated in the ratio between rationality and institutions as explanatory variables for political behaviour. *Rational choice* neo-institutionalists tend to rationality and more in particular to the maximising of rational preferences within an institutional arena that constrains and empowers behaviour. Institutions are considered to be 'thin' institutions. In addition, they assume that preferences are inherent to individuals and exogenous to the political system. In other words, individuals enter the political arena with fixed preferences and are successively confronted with an institutional context that influences their rationally calculated strategies but not their preferences. Individuals thus obey to a logic of consequence⁵. On the contrary, historical and sociological neo-institutionalism consider also preferences to be subject to institutional impact. Institutions are thus considered as 'thick' institutions. The *historical* approach assumes that institutions tell individuals what they should prefer in particular institutionalised circumstances. This mechanism is sometimes called the logic of appropriateness⁶. The *sociological* approach even assumes that actors only express preferences which have been internalised by the institutional and cultural identity. This mechanism is often referred to as embeddedness⁷. A synthesis of the three variants is considered to be unnecessary since an adjusted historical approach can incorporate some features of the other approaches⁸. The rest of this paper will employ a particular kind of historical neo-institutionalism.

To test the hypothesis whether the historical neo-institutionalist approach can be used to explain preferences and strategies (and correlating configurations) of political actors, two comparative analyses were conducted. These analyses were inspired by the methodology of qualitative comparative analysis within the Comparative Politics tradition (De Meur et alii, 1996b; Ragin, 1987) and were adjusted to the research question of this study. This basically implied the shift from external comparisons (between political systems) to internal comparisons (of aspects within one particular political system). This methodology also fits nicely into the constraints of the dataset and the empirical context: a comparative analysis can use a dataset with a large set of independent variables and a limited set of observations in its search for correlations and explanations.

First of all, a *Most Different – Similar Outcome / Most Similar – Different Outcome (MDSO/MSDO)* analysis examined whether institutional variables are indeed relevant to explain interaction patterns that were developed with respect to the decision-making processes of the nine directives

⁵ Some of the most important authors of the rational choice neo-institutionalist tradition are Shepsle (1989 & 1997) and Levi (1988). Applications on European decision-making can be found in Tsebelis (1994) Tsebelis and Garrett (1996), Steunenberg (1994 & 1997) and in Moser et alii (1997).

⁶ The most influential literature in the historical neo-institutional approach are March and Olsen (1984 & 1989) and Krasner (1988 & 1995). The approach has often been used with respect to EU decision-making (cf. Armstrong & Bulmer, 1998; Bulmer, 1994 and Kerremans, 1996).

⁷ The collective work of Powell & DiMaggio (1991) is very important to sociological neo-institutionalism. Studies in EU decision-making are rather rare.

⁸ Although some authors suggest a synthesis to be a major step forward (cf. Norgaard, 1996 and Ostrom, 1991).

and regulations⁹. For this purpose, both institutional and rational choice variables were incorporated in the model. In total 44 independent variables were examined, divided over 5 categories which dealt with features of the decision-making procedure, the involved interest groups, the involved decision-makers, the legislative proposal and the policy fields containing the legislative proposal.

The MDSO/MSDO logic of comparison needed three parallel analyses. A comparison and interpretation of these three analyses lead to the conclusion that the two kinds of different configurations (loose and tight) correlated with two different series of variables. The institutional hypothesis was confirmed to the extent that institutional variables seemed to be preponderant to understand the genesis of the decision-making patterns. The development of *tight* configurations was induced by institutional variables such as an expected short decision-making process, the absence of a spill-over effect and the fact that the legislative proposals originated in a social-economic sphere. *Loose* configurations were generated by a transparent behaviour of the Commission, the fact that the legislative proposals were directives (and not regulations), an imminent change of the presidency in the Council of Ministers, a high degree of technicality, low institutional interest of the interest groups and heavy efforts by interest groups in case of approval.

The MDSO/MSDO analysis was only able to detect single variables. This constraint was overcome by using a second method of comparative analysis, the so-called *Qualitative Comparative Analysis (QCA)*, which can also identify combinations of variables¹⁰. The QCA analysis incorporated all institutional variables that were found to be relevant in the previous MDSO/MSDO analysis. Again a double analysis had to be undertaken, one with respect to the loose cases and one with respect to the tight cases. The analysis showed that a *loose* configuration correlated with a combination of a long decision-making process and an imminent change of the Council Presidency. A *tight* configuration was caused by the combination of no imminent change of the Presidency and a short process, the combination of a social-economic proposal, lack of expertise in the European Parliament (EP) and no imminent change of the Presidency, and by the combination of a social-economic proposal, lack of expertise in the EP and a short process.

In short, both comparative analyses concluded that institutional variables are indeed relevant to explain preferences and strategies of political actors. The core of this paper, however, goes one step beyond this. Using a very detailed interpretative analysis of one particular case it seeks to identify the mechanisms and procedures through which the institutional variables work.

⁹ For a detailed account of the MDSO/MSDO analysis, see Bursens (1999). For other examples see De Meur et alii (1994 & 1996a).

¹⁰ For a detailed account of the QCA analysis, see Bursens (1999). For other examples see Ragin (1987 & 1995).

3 How do institutional variables affect the development of decision-making configurations? The case of the Packaging and Packaging Waste Directive

To simply state that institutions matter is not sufficient. It is also interesting and indeed necessary to know how and to what extent they matter. A qualitative analysis of the decision-making configuration that was developed with respect to the Packaging and Packaging Waste Directive (PPW-Directive) shows how preferences and strategies of political actors are shaped by the institutional context.

3.1 The development of the actor-configuration

Why do political actors participate in decision-making? In the first place, of course, because it is in their interest to do so. Actors can think that the fulfilment of their interests will become more likely if they try to convince (other) decision-makers to initiate legislation or to change the content of legislative proposals. However, both these interests and the corresponding policy preferences can be shaped by the institutional context.

Decision-makers

This is also true with respect to the Commission and its role in the PPW-Directive. Why did the Commission submit a proposal for an all-embracing PPW-Directive that would undoubtedly raise a whole range of national and economic disputes? An important motivation can be found in the institutional interest of the Commission. Filling a major gap in European environmental legislation and receiving the credits for doing so corresponds with the Commission's institutional role to strive for more integration and to legitimise its own position. Matlary wrote that *'a key point in the new-institutionalist perspective is that institutions are assumed to be interested in taking advantage in whatever opportunities are available to them to strengthen and expand their positions and their roles'* (Matlary, 1997: 281). Indeed, each proposal that succeeds to become a directive or a regulation increases the Commission's prestige. Moreover, the Commission's interest has also to be seen against the background of its legal and thus institutional role as the 'European consciousness' and as the 'guardian of the Treaties', which both point the Commission into the direction of initiating supranational legislation. In addition, the Commission holds the monopoly to initiate legislation in first pillar issues. With respect to the PPW-directive also changes in the institutional context have triggered the initiative of the Commission. The first draft was directly provoked by a question to do so by the Council of Ministers. This question was in its turn provoked by changes in national legislative contexts, in casu the German Töpfer legislation¹¹, by the failure of previous European legislation¹² and by judgements of the European Court of Justice¹³.

¹¹ The so-called Töpfer legislation refers to the German Environment Minister who initiated stringent legislation with respect to recycling.

¹² For instance, the 1985 Liquid Container Directive which was had been insufficiently implemented.

¹³ For instance the 1986 Danish Bottle Case which forbid Denmark to stick to stringent environmental measures that were incompatible with Common Market principals.

It is important to note that it is never 'the' Commission, 'the' EP or 'the' Council which takes part in the decision-making process, but always some horizontally or vertically delimited entity of one of the institutions: a functionary or a Commissioner, one MEP or a parliamentary committee, a working group of the Council or a Permanent Representative on COREPER-level. Which division participates, is determined by the fragmented institutional structure of the European governance system. Above all, the horizontal fragmentation which repeats itself in all institutions, is important. But also the vertical fragmentation is manifestly present: within the Commission it reaches from the lower functionaries up to the College of Commissioners, within the EP from committees up to plenary sessions, within the Council from working groups up to formal meetings at ministerial level.

With respect to the PPW-Directive, this fragmentation resulted in a central position for environmental sections, although the directive had been based on the Common Market section of the Treaty and although the directive is characterised by a balance between environmental and competition provisions. Primary sources show, however, that the decision which legal basis should be used, was only taken after the publication of the first drafts, which implies no contradiction with the institutional perspective. One of the main reasons why the environmental sections played such an important role is that it was inspired by the Fifth Environmental Action Programme and that it was conceptualised as one of the 'daughter-directives' of the Waste Framework Directive. On top of this DG XI houses a special section for waste issues and therefore also the expertise to take the lead in drafting new waste legislation.

Moreover, administrative traditions prescribe that the functional allocation within the Commission is followed by the other institutions¹⁴. Following the allocation within the Commission, the Environmental Committee of the EP, the environmental section of the ESC and one of the environmental working groups of the Council were activated to guide the proposal through the consecutive stages of the decision-making process. Despite the dominant position of the environmental actors other sections of the decision-making institutions got involved as well. Some of them even participated because legal procedures and internal regulations prescribed them to do so. Within the EP an advisory committee was activated besides the responsible committee; within the Commission all Commissioners, their cabinets, and, to a lesser extent, also the corresponding DG's were involved because the Commission acts as a college. In reality, of course, only those Commissioners, cabinets and DG's participate which are directly involved because of spill over effects from the environmental section. With respect to the PPW-Directive, this spill-over effect was extremely large. Porter (1994) identified 16 different sections within the Commission that had contacts with DG XI.

¹⁴ This may seem obvious when a proposal clearly falls within one particular policy-domain. Data show, however, that the functional allocation within the Commission is also followed when more than one policy-domain is involved, even when the legal basis is situated in another policy-domain. The PPW-Directive is a nice illustration of this tradition.

Interest groups

The institutional competency to initiate an all-embracing PPW-Directive also triggered private actors to try to influence the decision-making process. Data show that industrial and commercial interest groups from member-states with stringent environmental legislation (in casu the Netherlands, Germany and Denmark) put their governments under pressure to vote a resolution in the Council of Ministers which would ask the Commission to take an initiative based on article 100A - Common Market (cf. supra). Producers from these member-states said to encounter problems to compete on foreign markets because stringent legislation in their own countries forced them to heavy investments. They admitted that the stringent environmental standards protected their home-markets from foreign products, but they complained that at the same time they were significantly disadvantaged on foreign markets¹⁵. Because the European institutional context made it possible for the EU to initiate environmental legislation, interest groups from these stringent member-states shifted their lobbying towards the European level. After a while these groups received support from interest groups in other member-states who also started to believe that European legislation from a Common Market perspective would have positive effects in terms of free competition. They expected European legislation to introduce lower standards in the whole of the EU, which would make it easier for them to sell their products in member-states who previously had more stringent legislation. It is indeed true that stronger environmental standards in some member-states (e.g. Germany and the Netherlands) obstruct imports from member-states with lower standards (e.g. the southern European member-states). In short, all interest groups can take advantage of the institutional feature that it might be possible to reach a European solution for member-state level problems.

Interest groups build European coalitions and participate in European politics based on the *interests* they have in European issues: industrial actors seek to limit regulations and potential efforts while environmental groups want to stress environmental arguments. Their strategies at the European level are, however, also shaped by *institutional constraints*. In general, interest groups cannot afford to lobby their national governments alone in order to block or foster a particular legislative issue. Qualified majority voting within the Council of Ministers makes it impossible for one member-state alone to block a proposal. On top of this, supranational institutions, such as the Commission, are not very keen to listen to arguments of separate national organisations. Interest groups know that in order to succeed also supranational actors and other member-states must be persuaded. They also know that this can only be achieved through supranational alliances with interest groups from other member-states.

In short, both decision-makers and interest groups enter the decision-making arena with policy-preferences that are directly based on their interests. But these preferences are not stable. They are subject to changes from the moment that actors become aware of the specific role they are

¹⁵ This is a nice illustration of a race to the bottom effect in which competition decreases environmental protection. Under these circumstances, producers from stringent member-states could also have reacted in an opposite way. They could also have reasoned that their investments would generate higher revenues if legislation would be as high all over Europe (cf. Vogel, 1997). This so-called California effect was not observed with respect the PPW-Directive, however.

supposed to play during the decision-making process. Decision-makers' preferences are first of all shaped by their adherence to a particular institution and by the fragmented character of that institution. All DG's for instance are in favour of a supranational strategy, but besides this, DG XI prefers environmental measures, DG III financially feasible proposals for producers and DG IV proposals that guarantee free competition within the Common Market. Moreover, Commissioners have got a national identity, but their adherence to the Commission obliges them to defend the European point of view and not the national interests. The fact that the independence of the Commission is based on the treaty provisions, is a further illustration of how the preferences of the actors can be shaped by the institutional context.

A similar reasoning is true for MEP's. Their primary interest is to represent their voters and their parties in order to be re-elected or at least to get other party-members elected. Therefore, their policy-preferences are first of all those of their voters and of their national parties. Their mandate within the EP is, however, also shaped by the parliamentary organisation, and more in particular by the functional differentiation of the parliamentary committees. The membership of a parliamentary committee colours a politician's preferences. The evaluation of a political mandate by the other institutions and by their voters and parties is partly based on the extent to which a committee succeeds to get its amendments approved in the plenary session and by the Council of Ministers. That is one of the reasons why with respect to the PPW-Directive the amendments of the Environmental Committee and especially of its chairman and rapporteur, were shaped by 'green' motivations. Respondents gave a similar appreciation of the advisory committee on Economic and Monetary Issues: their opinion was more coloured by industrial interests than by environmental interests.

Policy-preferences of the member-states representatives, both in Commission's expert meetings and in working group, COREPER and ministerial meetings of the Council were based on national interests and on the interests of the involved bureaucracies. But decision-making features, in casu qualified majority voting, changed preferences. Member-states who wanted the PPW-Directive to become a success, changed their preferences concerning the contents of the directive in function of a practicable proposal, i.e. a proposal that could be approved by a qualified majority. Member-states that were opposed to a directive, on the other hand, took positions that would make a compromise difficult or even impossible to achieve.

3.2 Strategies of interest groups and decision-makers

Data from interviews show that the actor-configuration during the decision-making process of the PPW-Directive is characterised by an a priori unlimited number of competitive interest groups which operate both on an individual basis and through peak-associations. In total, a few hundred interest groups participated in the legislative process. Porter (1994: 2) observed 279 lobbying entities which contacted DG XI. Some organisations might have been counted twice (being member of more than one peak-association), but this is compensated by the fact that also other DG's within the Commission were approached by some of the interest groups. It can therefore be assumed that the actor-configuration with respect to the Commission consisted of

more than 300 interest groups. Indeed, elsewhere the PPW-Directive has been called 'the most heavily lobbied dossier in the history of European institutions (Golub, 1996: 2)¹⁶.

Interest groups

The group of actors that contacted the Commission can be divided into several subcategories: coalitions of European industrial and trade organisations, individual European industrial associations, national associations, multinational companies, national firms, professional lobbyists, European and national environmental associations, European and national consumer organisations, European trade unions, European and national politicians, national, regional and local governments from member-states as well as from non-member-states, research institutes and media.

The majority of these interest groups had an industrial or a trade background. All links of the production chain were present: producers of raw materials for packaging material, producers of packaging material, producers of products to be packaged, trade organisations of raw materials and packaged products, import and export organisations, transport companies, distributors, packaging waste industries and recycling industries. In addition, also European and national employers' and employees' organisations were active. On top of this, professional lobbyists nearly always represented industrial or trade interests, regional and local authorities represented companies from their territory and politicians represented the interests from producers or distributors. In total, it is estimated that 80% of the interest groups had an economic background. These actors did not only act individually but also by means of several collective organisations: both national and European associations, some of them covering individual companies, others federations of companies. In addition, the peak-associations also made coalitions themselves. The Packaging Chain Forum (PCF), for instance, is a coalition that represented the complete chain of actors during the life-cycle of products, starting from the production of raw materials for packaging and ending with the recycling of packaging.

The many economic actors seem to contrast with the few environmental and consumer organisations. According to Porter, DG XI was contacted by 10 environmental associations (6 European and 4 national) and 5 consumer associations (2 European and 3 national) (Porter, 1994). This contradiction is misleading, however. A small dozen environmental associations can even be considered to be a rather large number from the perspective that they are just fewer in number. In any case, these actors were not frustrated in their contacts. It can thus be concluded that the configuration with respect to the Commission was overall extremely open.

The Commission

Data confirm that DG XI collaborated with many private actors from different backgrounds. For a long time environmental associations have had a relative easy access to DG XI (Mazey and

¹⁶ DG XI is also more in general considered to be one of the most heavily lobbied DG's, followed closely by the services for consumer affairs and industrial policy, but ahead of those for agricultural and social policy (Page, 1997: 96).

Richardson, 1994b), which was also observed by the industrial interest groups. Their perception was backed by the knowledge that from the beginning, DG XI had recruited 'atypical' civil servants, i.e. experts with a professional environmental background and with a more than average interest in environmental matters (Cini, 1997). Because of this cosy relationship with the environmental sector, DG XI was distrusted by industrial and agricultural interest groups and several national governments. They considered DG XI to be a 'captured agency' and decided that trying to influence it would be a waste of energy¹⁷. However, this situation has changed over the last few years because DG XI also established multiple contacts with industry (Mazey and Richardson, 1993), for instance by means of the General Consultative Forum (GCF) which consists of representatives from environmental associations, industry, trade unions, employers, consumers, local and regional authorities and academics. This broad range of advisers legitimates the Commission's proposals, above all when it is confronted with other decision-making institutions, such as the Council of Ministers.

DG XI was lobbied by a large number of European level interest groups. The presence of such a large group is determined by the institutional context. Thinking of the words 'shooting were the ducks are', interest groups had been organising themselves on the European level from the beginning of the integration process. They understood that it made no sense to lobby only national decision-makers in policy-fields that were (partly) shifted to the European level. In those early years integration was limited to only a few economic sectors. The first interest groups to build European alliances were part of these sectors¹⁸. In 1964, Sidjansky identified 241 European interest groups, in 1970 they counted 308 groups and in 1975 already 346 groups (Sidjanski, 1967, 1974 & 1982). Just before the European act, researchers counted 659 European level groups (Morris et alii, 1986). The institutional reforms of the Single European Act and the start of the Common Market Programme, caused an explosive growth of European level groups. In 1993, the Commission itself estimated the amount of European groups at 3000 employing 10.000 lobbyists¹⁹. These data confirm the institutional hypothesis which had already been written down in 1967: '*The more important, immediate and autonomous the powers, the more probable it is that groups will try to organise themselves at the level of these powers*' (Sidjanski, 1967: 402). Another illustration is the creation of interest groups, especially for one particular directive. Groups such as European Recovery and Recycling Association (ERRA) and European Federation of Waste Management (FEAD) were created when it became clear that the Commission was preparing an all-embracing packaging waste directive.

¹⁷ In this respect Peterson quotes a DG III civil servant. 'These DG XI people are like Trappist Monks who make Chimay Bleu. They don't consult with anyone their religious patrons and they cook up very strong stuff, which will always appeal to a certain segment of the beer-drinking public. They don't ever think about what a ferocious hangover is induced by the stuff they cook up' (Peterson, 1995: 482).

¹⁸ Examples are the Federation of Iron and Steelworkers, the Liaison Committee of European Metallurgical Industries and the employers' peak-association UNICE. When the European level took more initiatives, the amount of European interest groups increased.

¹⁹ PB C 63 of 05/03/93

The European Parliament

Interviews showed a similar situation with respect to the EP. This image was also confirmed by Rigler (1994) who analysed the contacts of the rapporteur of the Environmental Committee during the first reading of the PPW-Directive. She counted 104 lobbying entities, the majority of them economic interests (individual companies, associations of companies, professional lobbyists, and to a lesser extent regional authorities and politicians). The number of economic actors was, however, lower than with respect to the Commission. This implies that the share of environmental associations, consumer associations and NGO's was larger with respect to the EP than with respect to the Commission. The real number of interest groups is even higher because own interviews show that the rapporteur is indeed the central actor within the EP, but that also other members of the Committee and the political groups themselves were frequently contacted. It remains true, however, that the Commission was more popular than the EP. Contacts during the first reading were not equally spread: a much higher frequency was observed during the reading of the first and the second working document and at the moment of the deadline to enrol amendments for discussion in the plenary session.

Strategies of interest groups vis à vis MEP's were also shaped by the organisational structure of the European Parliament. According to respondents the preferred parliamentary targets were the Committee-chairman, the Committee-rapporteur and the Group-leaders: the chairman and the rapporteur being the core players within the Committee and responsible for drafting the amendments; the Group-leaders exerting major influence on the position-taking and the voting of 'their' members in the Environmental Committee.

Economic and Social Committee

The ESC, consisting of a small secretariat and of representatives of socio-economic actors, holds a special position within the EU institutional framework. The composition of the ESC implies that many interest groups are part of the decision-making institutions. Due to the minor competencies, however, this doesn't mean a great deal. Moreover, other interest groups which have no interest whatsoever in the PPW-Directive, were involved in the drafting of the ESC-opinion and additional actors, who were not members of the ESC, had lobbying contacts with the secretariat and with members of the ESC (e.g. during a ESC hearing on the PPW-Directive and via experts in the ESC study-group on the PPW-Directive). Besides these formal occasions, respondents reported numerous informal contacts between non-member interest groups on the one hand and ESC members and the ESC secretariat on the other.

Member-states

Interviews also showed that members of the Council of Ministers, being the representatives of the member-states, were subject to numerous lobbying efforts by interested private actors. Respondents from interest groups and from Permanent Representations reported very frequented contacts during all stages of the decision-making process, peaking during the preparations for the Common Position and the deliberations in the Conciliation Committee.

Involved actors here were mainly national interest groups lobbying their own national governments.

Discussion

The large number of participating actors is caused by several factors. First of all, the PPW-Directive was all-embracing and therefore appealing to a panoply of private actors. *The scope of the issue is very wide and touches on the interests of a large number of political, social and economic groups* (Porter, 1993: 17). Secondly, the envisaged standards could cause major financial efforts and structural adjustments to production processes. It is therefore very rational that many interest groups were keen to participate in the decision-making process. All these actors entered the European decision-making arena with the purpose to change the PPW-Directive drafts in the direction of their own interests. However, this rational behaviour alone doesn't explain the way in which the actors behaved in the decision-making arena. It is indeed the institutional context which offers extra clues to understand that behaviour. Some illustrations. The involvement of so many sectors was caused by the all-embracing character of the directive. Not focusing on one aspect (such as waste or one kind of packaging) but on all materials and on their respective recycling processes at the same time, caused a spill-over to a large number of economic and non-economic sectors. The enumeration of these sectors is misleading, however, because the PPW-Directive had a double goal, although it was situated within the environmental policy sector: an efficient functioning of the Common Market by banishing trade and competition barriers on the one hand and a limitation of the environmental consequences of the use of packaging on the other. *The packaging and packaging waste directive was, therefore, at one and the same time both an environmental issue and a single market one* (Porter, 1995: 13)²⁰.

Thirdly the high technical character of the PPW-Directive triggered the participation of a large number of actors. Indeed, to draft a feasible proposal, functionaries and politicians needed all technical information they could get. Unfortunately, this expertise was not completely available within the services of the institutions alone. Commission officials, MEP's, ESC-members and national bureaucracies, non of them possessed enough knowledge and none of them was able to collect enough knowledge to write a proposal that would pass all institutions and could be smoothly implemented in all member-states. Openness to all actors that would participate in decision-making and implementation processes was therefore necessary. Both economic and non-economic actors gratefully accepted the invitation to deliver expertise and buried the decision-makers under numerous position-papers and other lobby-documents. Mazey and Richardson consider this information collection process as *'a procedural ambition within the Commission that where ever possible, officials should consult with the relevant European associations for each particular policy sector'* (Mazey and Richardson, 1994a: 178).

²⁰ Moreover, environmental policy is multidimensional in itself because several other sectors are touched directly or indirectly by environmental legislation. Common Market issues are the most important, but social, agricultural and regional interests can also be touched by environmental policy.

However, at a certain moment a saturation point occurs. Decision-makers are confronted with an overload of information, which obliges them to make a selection. The first step of this selection process is limiting access to representative European peak-associations. In this respect the Commission tried to build a representative discussion-platform (Porter, 1995), which in its turn triggered UNICE to build its own packaging communication network. But even after this first reduction to coalitions and peak-associations, the PPW-Directive still triggered the attention of a large number of interest groups. That's why a second reduction became necessary. Representatives of interest groups confirmed that their strategy to build coalitions was shaped by this reduction strategy²¹. In addition, cross-sectoral organisations such as EUROPEN (European Organisation for Packaging and the Environment), ERRA and FEAD became active. The necessity to build coalitions was also present at the side of the environmental organisations. In 1992 they created the Sustainable Packaging Action Network (SPAN) due to an institutional stimulus of the Commission which asked the environmental sector for their opinion on the draft directive. Only by building a strategic coalition, the environmental sector could comply to this request and hence force itself into the services of the Commission.

Despite the reduction of interest groups, the Commission and the EP remained relatively open: coalitions were in competition with each other (not only between but also inside sectors), not all sectors built coalitions or worked exclusively through coalitions, within the coalitions important sub-groups remained active (Porter, 1995: 19), and decision-makers did not deny any actors to defend their interests. In short, *'some filtering of interests inevitably occurs in this process despite the system remaining remarkably open to representations'* (Porter, 1993: 17)²².

3.3 How decision-makers and interest groups react to each other

The behaviour of European institutions towards interest groups becomes more clear if one takes into account the institutional context. First of all, a remarkable difference between the Commission and the EP can be observed. Own interviews and data from previous research point to the Commission as the overall most popular target and at the same time to environmental organisations and consumer associations preferring the EP above the Commission. Why was the Commission the primary aim? The two golden rules of lobbying are early action and the selection of strategic targets. Setting the agenda is of course the best way to lobby, but this is not always possible. Second best is lobbying the functionaries who write the first drafts because during that stage a decisive orientation can be given to the proposal. In the European context this work is done by functionaries of the Commission's bureaucracy. With respect to the PPW-Directive in

²¹ Examples of such coalitions were the Packaging Chain Forum (PCF), (industrial and trade peak-associations), the Group of Packaging Industries for Equitable Burden Sharing (packaging industries which can recycle relatively easy), the European Industrial Packaging Ad Hoc Group and the European Packaging Manufacturers and Users Group (both industrial federations concentrating on specific parts of the draft directive).

²² Coalition building is a typical feature of issue networks. Coalitions exist only for the period the issue is discussed and only in relation to one particular issue. The members of these coalitions can compete with each other with respect to other simultaneous issues.

particular, it was done by the section waste management of DG XI's Directorate A. This service was therefore the centre of all lobbying-activity (cf. supra).

It is also important to note that the Commission can only initiate but not adopt legislative proposals. Because the Commission has own interests and prestige, its strategy is to draft proposals that can be adopted by the Council of Ministers²³. This is why the proposal of the Commission already takes into account the viewpoints of the member-states. '*The Commission's position (...) was a reflection of the political compromise it knew would be necessary to gain Council agreement on the directive*' (Porter, 1995: 32). In this respect several formal and informal consultations between the Commission and the member-states took place (cf. supra). In other words, the final draft of the Commission has got a good chance to work itself through the whole legislative process. Consultations with interest groups and member-states enable the Commission to formulate its proposals in such a way that a winning coalition of member-states and interest groups can be found. Data confirm that interest groups were very quick to present their interests to the Commission. They know very well that the core issues of the proposal are settled once a draft proposal is published. National interest groups therefore used a double strategy: directly towards the member-states and indirectly towards the Commission. In addition Porter found that the lobbying of the Commission was most intensive in 1991, i.e. in the very beginning of the drafting and in 1993, i.e. at the moment of the drafting of the adapted proposal based on the opinion of the EP (Porter, 1995).

The openness of the Commission also implies no representative monopoly. This strategy was shaped by the organisational structure of the interest groups they encountered during the drafting of the directive. Industrial groups nor environmental associations were able to present the Commission representative interlocutors. Despite attempts, several coalitions remained active and some interest groups kept on working on their own or kept on using double strategies. To collect all relevant information, the Commission was therefore obliged to consult broadly²⁴.

Moreover, the Commission did not delegate competencies to private actors. Not only was this not allowed in the environmental sector (as opposed to the social sector), but it was also not possible because interest groups were not strong enough to bind their members to a negotiated deal. Because private actors could not guarantee decision-makers that members would respect a deal, decision-makers could not engage in real negotiations. Contacts therefore took only the shape of consultations and exchanges of information. Delegation of competencies could have occurred informally with respect to the formulation of the proposal. However, insufficient representativeness made this again impossible.

The EP is a less popular target because its formal role in the decision-making process is more limited. However, also MEP's were contacted on the occasions they played their part in the

²³ This strategy is also called *engrenage* (Cini, 1996; Rometsch and Wessels, 1994).

²⁴ Also Mazey and Richardson have already pointed to how sectoral differences can influence the way in which decision-makers and interest groups interact. '*These differences in policy-making styles within the EC. can be explained to some extent by the particular characteristics of different policy sectors*' (Mazey and Richardson, 1993: 115).

process, i.e. during the first and the second reading of the proposal and the meetings of the Conciliation Committee (Rigler, 1994). The EP itself was short of expert information, even more so than the Commission because it lacked even more technical expertise with respect to packaging and packaging waste. Its secretariat has got less functionaries than DG XI and MEP's, unlike the Commission's functionaries, cannot concentrate on one single issue. Neither the personal collaborators of the MEP's, the so-called assistants, can manage all details of the dossier. The EP can partly solve this problem by using internal and external expertise. Internal expertise comes from STOA (Office for Scientific and Technological Options Assessment²⁵), external expertise from DG XI. This doesn't suffice, however, which forces MEP's to organise hearings with external experts and interest groups (Árp, 1992: 63-70). Despite these strategies, respondents from economic actors still considered the EP to be less important than the Commission. Data show that more environmental associations lobbied the EP than the Commission. This can be attributed to the traditional transparency of the EP in general and the Environmental Committee in particular. MEP's want to seduce new voters, besides trying to hold the ones they already have. Listening to general public interests, such as environmental and consumer concerns, can be an appropriate strategy in this respect²⁶.

A major difference also existed between the Commission and the EP on the one hand and the Council on the other: interviews reveal that the Commission and the EP were more subject to lobbying than the Council due to the secretive character of the Council's deliberations. Also with respect to the PPW-Directive it was hard for interest groups to discover member-states viewpoints and even harder to discover the results of the Council's negotiations. A fortiori, it was also hard to contact and influence actors. Neither did the Council build any formal structures to receive information from the interest groups. But interest groups could not afford not to influence the Council, because of its crucial role in the decision-making process. They chose for an alternative strategy. *'The impenetrability and still considerable powers of the latter (i.e. the Council) have meant that much group activity has had to be directed at national governments and capitals'* (Porter, 1993: 16). This strategy is called division of labour and is enabled by the multi-level character of the European decision-making process. Not the Council in se (the secretariat, the Permanent Representations) were the targets of lobbying but the relevant actors within the member-states (civil servants, politicians and their collaborators). Respondents from both economic and environmental interest groups reported such division of labour. This also implied that different governments had to be contacted in a different way because they all had different points of view. A heterogeneous approach, dependent on the respective institutional contexts, was therefore necessary.

On the other hand, Commission, EP and Council could have shared strategies when it came to recognition and privileging interest groups, but none of this was done whatsoever. This is not the

²⁵ STOA was created in 1987 to nourish the EP with independent scientific expertise through co-operation with research institutions and universities.

²⁶ In addition, the EP has voted a resolution with respect to lobbying in order to balance economic groups and NGO's. Interest groups who want access to the EP and to MEP's have to register since 1996 and have to sign a code of conduct since 1997 (Bursens, 1996).

case for the ESC, however, which only allows members to formally discuss issues such as the PPW-Directive (cf. supra). On the other hand, the ESC shared the other institutions' strategy not to control the day to day functioning of interest groups nor the selection of its representatives.

Overall, strategies of interest groups and decision-makers have not been guided by stable or institutionalised channels. These were simply not present, also because of the young age of European environmental policy. Its absence triggered a large number of informal and unstructured contacts. To bring order into chaos, the Commission organised some official meetings with national experts and interest groups during the draft stage of the directive. Informal contacts were dominant, however. This can partly be attributed to administrative traditions that decision-makers brought with them from their national contexts to the European level. Indeed, even in countries that are considered to be examples of neo-corporatist procedures, such as Belgium and the Netherlands, environmental policy is hardly organised through institutionalised channels. The supranational context did not bring any changes: a 'logic of appropriateness' lead also in the European context to a dominance of informal contacts and to a strict separation between interest groups and decision-makers. One was used to this kind of procedures, why change them?

3.4 Preferences and strategies during the decision-making process

The Commission

Decision-makers also consulted among each other. These contacts were heavily dependent on the institutional division of competencies and on the inter-institutional balance of power. With respect to the PPW-Directive the Commission has from the very beginning stimulated contacts among the member-states through formal and informal meetings with representatives of the environmental services of the member-states' bureaucracies. As has already been mentioned, the Commission did so in order to direct the proposal as unchanged as possible through the Council. The Commission approached not only member-states but also other institutional and non-institutional actors. One of the most frequently used fora in this respect was the ad hoc group which gathered many of the interested actors: representatives of the interest groups, functionaries of DG XI and other DG's, *cabinetards*, MEP's, ESC-members and member-states' representatives.

Also the formal and informal contacts among the DG's were institutionally motivated. The final proposal of the environmental Commissioner and its services must be confirmed by the College of Commissioners. In order to reach an intra-Commission compromise, DG XI had to take into account the interests of the other DG's and other Commissioners. Likewise, DG XI had also early contacts with MEP's. These continued until DG XI officials presented the proposal in the environmental Committee. Not only civil servants were active, also cabinet-members of the environmental Commissioner. Cabinets' contacts within the Commission are formally organised in the '*Groupe des Affaires Parlementaires*' (GAP), which consists of the parliamentary attachés of the Commissioners and which is presided by the attaché of the Commissioner responsible for EP-relations (Westlake, 1994). In addition, formal contacts between the Commission and the EP took place within the '*Neunreither Group*', which meets the week before the plenary sessions. This

group consists of representatives of the EP, the Commission, the ESC and the General Secretariat of the Council.

The Commission's behaviour in the other institutions depends on the role and the position of these institutions. Within the *EP*, the Commission is above all a defender of its own proposals. What is at stake is to collect as much support as possible to ensure a smooth journey of the proposal through the decision-making process. It tries to avoid amendments because less amendments implies less negative opinions of the Commission to these amendments which in its turn implies more possibilities that the Council adopts the legislation with qualified majority. Within the *Council*, on the other hand, the Commission is not a defender of its own ideas but more a policy broker who has to reach a consensus among the member-states.

The Presidency

Of a special importance are the contacts between the Commission and the Presidency. After all, the president of the Council sets the agenda of the Council's meetings. This implies that when the Presidency is not interested in a particular dossier, there is little chance that it is set on the agenda. The Commission is very eager to know the preferences of the Presidency because it doesn't want to spend time in dossiers which have no chance to be set on the agenda of the Council. The Commission can of course always push the Council to treat particular dossiers as priorities.

Once a Presidency puts a dossier on top of the agenda, however, it will look to it that it will become a success because from that moment on its prestige is at stake. During the second half of 1993 the Belgian Presidency put the PPW-Directive on top of the agenda. It subsequently made many efforts to gain progress, which meant at that moment reaching an agreement on a Common Position. Belgium feared that the subsequent presidents would not put much effort into the case: Greece has traditionally been a weak president and Germany was not happy with the proposal. Therefore, contacts between member-states were extremely intense during the second half of 1993. The Belgian Presidency also spread the word that it would like to come to a Common Position before the end of its term. Porter (1995: 30) even mentions two meetings a week. In the end Belgium succeeded to reach a political agreement on a Common Position in December 1993. The formal Common Position followed soon in Spring 1994.

The behaviour of the president is to a large extent shaped by the institutional role it has to play. As president it has to play a double one: it has to defend its own national interests which implies gaining as much as possible and at the same time it has to chair the negotiations, which implies reaching a solution through a compromise. The president also presides the negotiations of the Conciliation Committee. During these meetings, its behaviour is even more shaped by its institutional role. With respect to the PPW-Directive, Germany had to defend other interests than the national ones. Indeed, Germany was opposed to the directive, but as president of the Conciliation Committee it had to bring the negotiations to a success, which implied compromising in stead of rejecting. Hayes-Renshaw and Wallace described this institutional constraint as follows: *'The Council Presidency is under pressure to look for an agreement and to manage*

business in such a way as to foster agreement. This task is always in tension with the fact that the presidency suffers from a structural bias in favour of its own governments position.' (Hayes-Renshaw and Wallace, 1997: 146). One part of the solution is that the most senior official plays the role of president and the second senior the role of the member-state.

The president indeed lives in the centre of the intergovernmental contacts. However, also other member-states have very frequent contacts among each other. Because with respect to the PPW-Directive qualified majority voting made it possible to postpone or at least to block a directive, dense contacts were observed among member-states which opposed the directive. Several occasions were used to discuss a common strategy: weekly working group- and COREPER-meetings but also bilateral informal contacts outside formal Council settings. This enabled not only contacts among the member-states but also between the member-states and the Commission, who participates in all Council meetings. On top of this the Council and the Commission host services that organise discussions between the two institutions. It is also in general very important for the member-states to monitor the position of the Commission since the latter has the right to withdraw its proposal at any moment in the decision-making process.

The co-decision procedure

The co-decision procedure caused many contacts between member-states and the EP, above all with the members of the Environmental Committee because the pace of the procedure was dependent on the position of the EP²⁷. The amendments of the first EP-reading which were not withheld in the Common Position and which were not accompanied by a positive opinion of the Commission, were also not approved in the second EP-reading. Indeed, if the EP followed the Commission, the Council could quickly adopt the directive with a qualified majority. Frequent informal contacts between the Environmental Committee of the EP on the one hand and the cabinets of the Commissioners and the member-states on the other hand were necessary for the EP to know two things: firstly, which amendments would receive a positive opinion of the Commission, and secondly would there be enough support in the Council to reach a qualified majority for a Common Position?

If enough member-states kept on supporting the Common Position, the EP could fasten the procedure by not adopting any extra amendments. All this, of course, assuming that the EP preferred a quick adoption. This was indeed the position of a majority in the EP on the whole, but not of the Environmental Committee. The latter voted more amendments than were eventually approved in plenary. Why did the Environmental Committee follow this strategy? The Environmental Committee, institutionally preferring pro-environment legislation also knew that a qualified majority was within reach. By introducing amendments that would receive a negative opinion of the Commission, the Environmental Committee tried to provoke the conciliation procedure. During this procedure, even more pro-protection amendments could be achieved.

²⁷ Besides the formal institutional contacts, the three institutions have also monthly *trialogues* which are prepared by representatives of the respective General Secretariats. These meetings are designed to discuss decision-making procedures but they can also be used as a forum to exchange views on other issues.

The conciliation procedure also implies extra opportunities for interest groups. The strategy of the Environmental Committee failed, however. Industrial groups succeeded in persuading the plenary session of the EP of a quick treatment, i.e. not to adopt amendments that the Commission would not approve. Group-leaders had contacts with the Commission and therefore knew which amendments it would approve²⁸ and only those amendments were adopted in plenary. Moreover, the Commission played the same game by slightly changing its own preferences because it also liked a smooth adoption of the PPW-Directive.

The Commission also tried to prevent the conciliation procedure also for other reasons. The Conciliation Committee implies a worse situation for the Commission and above all a de facto shift of influence into the direction of the Council and certainly into the direction of the EP. Within the Conciliation Committee Council and EP have to agree on a common text and the Commission's role is to conciliate. This means far less opportunities for the Commission to defend its own ideas and interests. The latter is also illustrated by the fact that the EP and the Council had not been able to reach consensus on the basis of the Commission's proposal. The process to reach a Common Text is also not longer subject to the rule that the Council can only unanimously adopt amendments that were rejected by the Commission. The negotiations are more open. A nuance is that the tradition has grown to look for consensus among the member-states (Hayes-Renshaw and Wallace, 1997). This tradition puts the increase of the EP-power into perspective, but it remains a decrease of the Commission's power.

Taken all this into account, a smooth development of the PPW-Directive could have been possible. But Belgium and Luxembourg decided otherwise. During the European discussions, both countries came internally agreed to introduce an *ecotax*. However, the EP had approved an amendment which would make this introduction impossible. The Commission, nor the political groups anticipated potential problems in some member-states with this amendment. Belgium and Luxembourg, however, were not prepared to dump their national regulations²⁹. They joined the three member-states that already opposed the proposal, which resulted in a blocking minority at Council level. Negotiations could not solve the problem, the amendment was rejected and the conciliation procedure was started³⁰.

During the meetings of the Conciliation Committee the institutional role of the major players, being the presidency of the Council and the chairman of the Environmental Committee became once again important. The position of the German Presidency has already been discussed. It makes no sense that the Presidency defends viewpoints that would never be approved by the EP. Moreover, member-states are not able to receive enough information on the MEP's viewpoints from the chairman of the Environmental Committee because the latter can use this information

²⁸ Also the parliamentary choice for article 100A was shaped by institutional motivations. The EP chose for the institutional opportunities of article 100A (second reading, veto-power) against the ideological opportunities of article 130R (environmental title of the treaty).

²⁹ The Belgian refusal had also an institutional background. They simply could not dump the *ecotax* since this was part of the so-called Saint-Michael agreements on Belgian state reform.

³⁰ Also the amendment on the comitology procedure was rejected.

to build his own strategy. He can for instance threaten that a particular amendment would never reach a majority in plenary. To prevent this, the Council has frequent contacts with other EP sections, the secretariat and the leaders of the political groups. *'The members of the two institutions are increasingly obliged to be sensitive to the currents of opinion shaping the position of their legislative power'* (Hayes-Renshaw and Wallace, 1997: 197).

But also for the chairman of the Environmental Committee it was crucial to have good contacts with the major political groups. The chairman had to reach a text that could be agreed on by the plenary. Within the Conciliation Committee he therefore could not defend the preferences of the Environmental Committee but those of the complete EP, or at least of a majority of the EP.

In the end the PPW-Directive resulted in an overall compromise which allowed Belgium to keep its *ecotax* until new European legislation would be voted³¹. Belgium therefore approved the proposal, only the Netherlands, Germany and Denmark voted against the proposal, which was not enough to build a blocking minority.

4 Conclusion: a neo-institutionalist model of decision-making in the first pillar of the EU

The analysis of the institutional mechanisms lead to the formulation of a neo-institutionalist model of decision-making. The comparative and interpretative analyses enabled an analytic generalisation. By using cases as observations it was possible to study the empirical reality in a very detailed manner and to confront it with theoretical knowledge. The logic of comparison combined with the qualitative interpretations offered the opportunity to distillate an abstract model that shows how decision-making mechanisms can work. This model puts that institutional variables have an impact on preferences and strategies and in addition it shows which mechanisms are implicitly and explicitly used. The model is in the first place valid for decision-making in the policy-fields of the cases used in the empirical research. But it potentially reaches much further. First of all, the way the research was set up enables to use the model in future research in other policy-fields and for other types of decision-making. This will make clear whether the model is already sufficiently elaborated or whether it still needs more elaboration. Secondly, the assumption can be made that other types of decision-making in other policy fields and even in other pillars of the EU are subject to similar institutional constraints and empowerments. It is obvious that decision-making configurations in other domains will follow different patterns. However, this still fits in the institutional hypothesis because the core of the institutional argumentation puts that other institutions lead to other patterns of interactions between political actors. The comparative and interpretative analyses of this research have eventually lead to the following model:

³¹ The compromise also agreed with the EP's position on the comitology procedure. This was made possible because the Council promised the EP to find a solution in due time. This in its turn was possible because the institutional system allows for inter-institutional agreements and intergovernmental conferences.

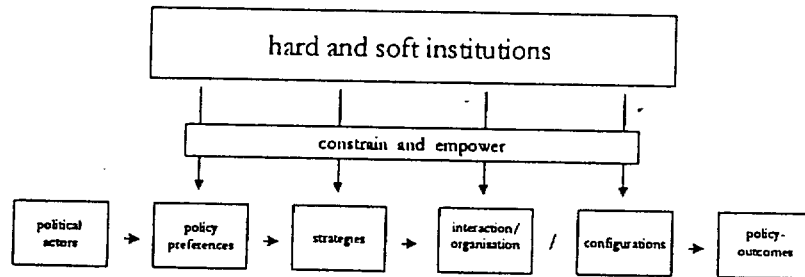


Figure 1: the neo-institutional model

The bottom most part of the scheme is a presentation of the policy cycle, only showing the relevant stages for this research. Implementation and feed-back processes are therefore omitted³². How does it look like? The central idea is that political actors strive at a particular policy outcome during the complete policy process. Both public actors (decision-makers) and private actors (interest groups) build their participation on policy preferences. They build strategies to fulfil their preferences and those strategies result in interaction and organisation structures, which can be considered as actor-configurations. In the end these actor-configurations generate policy-outcomes (which in itself were not part of the analysis). At first sight, this presentation is not exactly a neo-institutional one. On the contrary, it rather resembles a rational choice presentation in which actors have preferences and try to maximise these through a rational calculus.

This is, however, only a partial presentation. The main difference between the rational choice and the institutional approach is the presence of an additional dimension, which can be found in the upper part of the scheme. This extra dimension consists of hard and soft institutions. Hard institutions are formal structures, rules, procedures and laws. European examples are a fragmented decision-making structure, qualified majority voting, the co-decision-procedure, involvement of the ESC and procedures to write new treaties. Soft institutions are standards, conventions, agreements, political culture, habits and traditions. Examples from the EU are

transparency of the Commission, national habits of civil servants and politicians, package deals, unwritten inter-institutional agreements or the use of the Luxembourg compromise.

These institutions are inherent parts of the political system, of the structure of decision-makers and interest groups. Examples within the political system are treaty provisions, competencies, procedures, and corresponding roles of the institutions. Examples of the respective organisational structures are functional differentiation and representativeness. But there is more. Institutional features shape the strategies of the decision-makers and their behaviour in its turn influences the strategies of interest groups. Typical examples are treaty obligations with respect to the competencies of the institutions, such as the initiative monopoly of the Commission and the rotating Presidency of the Council. This shapes strategies of functionaries and representatives of the member-states and creates expectations for interest groups. Other examples are administrative traditions which must be anticipated by the interest groups.

It is crucial to see that institutions shape preferences, strategies and concrete behaviour of political actors. This means that actors develop particular preferences depending on a particular institutional context. These preferences can be different from other institutional contexts or different from those that can be expected on pure theoretical and rational grounds. Preferences, strategies and behaviour are contingent to the institutional context. That not only strategies, but also preferences are shaped by institutions is a crucial element of the historical variant of neo-institutionalism. These 'thick' institutions imply that the balance between institutions and rationality during the decision-making process leans over to institutions. Moreover, the impact of these institutions can be positive or negative: institutions can give opportunities to actors or can constrain them. Giving opportunities means enabling actors to build extra strategies and giving them reasons to change preferences, to expect more; constraining means limiting actors' strategies and preferences.

In short, this model puts that individuals do have preferences, but that these can change when they enter the decision-making arena, i.e. when they are confronted with hard and soft institutions which constrain and empower their strategies and, to a certain extent, also their preferences.

³² In this way, the policy-making process can be considered as the conversion stage of the political system (Easton, 1965).

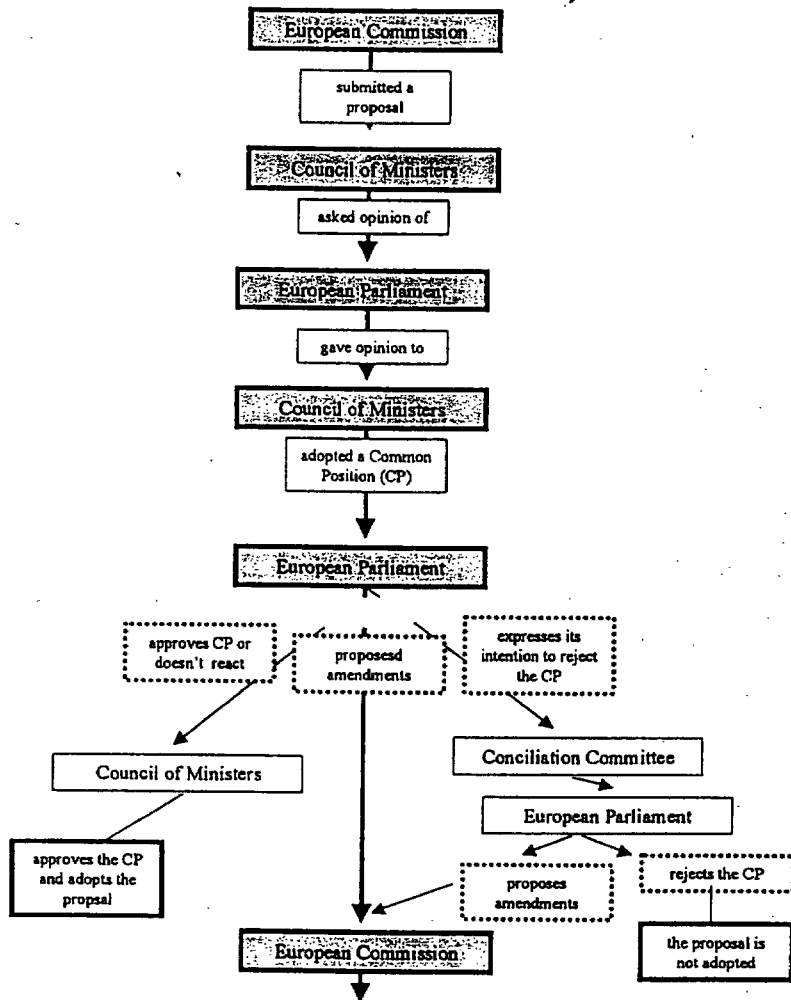
References

- Armstrong, K., Bulmer, S. (1998), *The Governance of the Single European Market*, Manchester: Manchester UP.
- Arp, H. (1992), 'The European Parliament in European Community Environmental Policy', in *European University Institute Working Papers*, 92/13: 79.
- Bulmer, S. (1994), 'The Governance of the European Union: A New Institutional Approach', in *Journal of Public Policy*, 13, 4: 351-380.
- Bursens, P. (1996), *European Integration and Environmental Interest Representation in Belgium and the EU*. Oslo: ECPR Joint Sessions 27 March - 4 April 1996.
- Bursens, P. (1999), *De impact van instituties op beleidsvorming. Een institutionele kijk op de besluitvorming in de communautaire pijler van de Europese Unie*, Doctoraatsthesis, Departement PSW, Universiteit Antwerpen (ULA).
- Caporaso, J.A., Keeler, J.T.S. (1995), 'The European Union and Regional Integration Theory', in Rhodes, C., Mazey, S. (Ed.), *The State of the European Union: Building a European Polity?* (29-62), Boulder: Lynne Rienner.
- Cini, M. (1996), *The European Commission. Leadership, Organisation and Culture in the EU Administration*, Manchester: Manchester University Press.
- Cini, M. (1997), 'Administrative Culture in the European Commission: the Cases of Competition and Environment', in Nugent, N. (Ed.), *At the Heart of the Union. Studies of the European Commission (71-88)*, London: Macmillan.
- De Meur, G., Berg-Schlösser, D. (1994), 'Comparing Political Systems: Establishing Similarities and Dissimilarities', in *European Journal of Political Research*, 26, 2: 193-219.
- De Meur, G. (1996a), 'La comparaison des systèmes politiques: recherche des similarités et différences', in *Revue Internationale de Politique Comparée*, 3, 2: 405-437.
- De Meur, G., Berg-Schlösser, D., Ragin Ch. (1996b), 'Political Methodology: Qualitative Methods', in Goodin, R.E., Klingemann, H.-D. (Ed.), *A New Handbook of Political Science*, Oxford: Oxford UP.
- Easton, D. (1965), *A System Analysis of Political Life*, New York: Wiley.
- Golub, J. (1996), 'State Power and Institutional Influence in European Integration: Lessons from the Packaging Waste Directive', in *Journal of Common Market Studies*, 34, 3: 313-339.
- Grande, E. (1996), 'The State and Interest Groups in a Framework of Multi-Level Decision Making: the Case of the European Union', in *Journal of European Public Policy*, 3, 3: 318-338.
- Hall, P.A., Taylor, R.C.R. (1996), 'Political Science and the Three New Institutionalisms', in *Political Studies*, 44, 4: 936-957.
- Hayes-Renshaw, F., Wallace, H. (1997), *The Council of Ministers*, London: Macmillan.
- Hix, S. (1994), 'The Study of the European Community: The Challenge to Comparative Politics', in *West European Politics*, 17, 1: 1-30.
- Hoeffler, R. (1994), 'Corporatism, Pluralism and Swedish Interest Group Influence in Social Welfare Policy Making', in *Governance*, 7, 2: 165-181.
- Jachtenfuchs, M. (1997), 'Democracy and Governance in the European Union', in *European Integration Online Papers*, 1, 2: <http://eiop.or.at/eiop/texte/1997-002a.htm>.
- Kerremans, B. (1996), 'Do Institutions Matter?', in *Governance*, 9, 2: 217-240.
- Krasner, S. (1988), 'Sovereignty: an Institutional Perspective', in *Comparative Political Studies*, 21, 1: 66-94.
- Krasner, S.D. (1995), 'Power Politics, Institutions and Transnational Relations', in Risse-Kappen, T. (Ed.), *Bringing Transnational Relations Back in (257-279)*, Oxford: Cambridge University Press.
- Lehmbruch, G. (1982), 'Neo-Corporatism in Comparative Perspective', in Lehmbruch, G., Schmitter, Ph. (Ed.), *Patterns of Corporatist Policy-Making (1-28)*, London: Sage.
- Levi, M. (1988), *Of Rule and Revenue*, Berkeley: University of California Press.
- March, J., Olsen, J.P. (1984), 'The New Institutionalism: Organizational Factors in Political Life', in *American Political Science Review*, 78, 2: 734-748.
- March, J., Olsen, J.P. (1989), *Rediscovering Institutions: The Organizational Basis of Politics*, New York: Free Press.
- Marks, G., Hooghe, L., Blank, K. (1996), 'European Integration from the 1980's: State-centric versus Multi-level Governance', in *Journal of Common Market Studies*, 34, 3: 341-378.

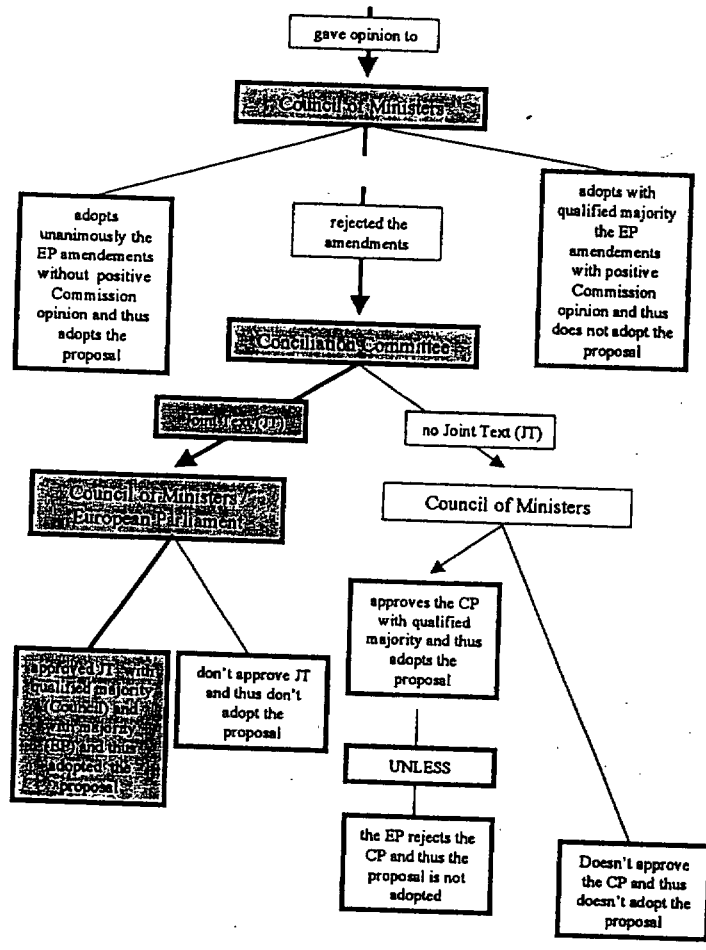
- Matlary, J.H. (1997), 'The Role of the Commission. A Theoretical Discussion', in Nugent, N. (Ed.), *At the Heart of the Union. Studies of the European Commission* (265-282), London: Macmillan.
- Mazey, S., Richardson, J.J. (1993), 'EC Policy Making: An Emerging European Policy Style?', in Liefferink, J.D., Lowe, Ph., Mol, A. (Ed.), *European Integration and Environmental Policy* (114-125), London: Belhaven Press.
- Mazey, S., Richardson, J.J. (1994a), 'The Commission and the Lobby', in Edwards, G., Spence, D. (Ed.), *The European Commission* (169-187), Harlow: Longman.
- Mazey, S., Richardson, J.J. (1994b), 'Policy Co-ordination in Brussels: Environmental and Regional Policy', in *Regional Politics and Policy*, 4, 1: 22-44.
- Mazey, S., Richardson, J.J. (1995), 'Promiscuous Policymaking: The European Policy Style?', in Rhodes, C., Mazey, S. (Ed.), *The State of the European Union: Building a European Policy?* (337-360), Boulder: Lynne Rienner.
- Morris, B., Boehm, K., Vilcinskas, M. (1986), *The European Community: A Practical Directory and Guide for Business, Industry and Trade*, London: Macmillan.
- Moser, P., Schneider, G., Kirchgässner, G. (Ed.) (1997), *Decision-Rules in the European Union: A Rational Choice Perspective*, London: Macmillan.
- Norgaard, A.S. (1996), 'Rediscovering Reasonable Rationality in Institutional Analysis', in *European Journal of Political Research*, 29, 1: 31-57.
- Ostrom, E. (1991), 'Rational Choice Theory and Institutional Analysis: Toward Complementarity', in *American Political Science Review*, 85, 1: 237-243.
- Page, E.C. (1997), *People Who Run Europe*, Oxford: Oxford Clarendon Press.
- Peterson, J. (1995), 'Playing the Transparency Game: Consultation and Policy-making in the European Commission', in *Public Administration*, 73, 3: 473-492.
- Porter, M., Butt Philip, A. (1993), 'The Role of Interest Groups in EU Environmental Policy Formulation: A Case Study of the Draft Packaging Directive', in *European Environment*, 3: 16-20.
- Porter, M. (1994), *The Lobbying of the European Commission over the Packaging and Packaging Waste Directive, Brussels: ERRA-Report.*
- Porter, M. (1995), *Cross National Policy-Networks and the EU's Packaging and Packaging Waste Directive. Sonderborg: Conference on New Nordic states and the Impact on EU Environmental Policy, Sanbjerg Manor, Sonderborg, 6-8 April 1995.*
- Powell, W., DiMaggio, P. (1991), *The New-Institutionalism in Organizational Analysis*, Chicago: University of Chicago Press.
- Ragin, C. (1987), *The Comparative Method: Moving Beyond Qualitative and Quantitative Strategies*, Berkeley: University of California Press.
- Ragin, C. (1995), 'A Qualitative Comparative Analysis of Pension Systems', in Janoski, T., Hicks, A.M. (Ed.), *The Comparative Political Economy of the Welfare State* (320-345), Cambridge: Cambridge UP.
- Rhodes, R.A.W., Marsh, D. (1992), 'New Directions in the Study of Policy Networks', in *European Journal of Political Research*, 21, 1-2: 181-205.
- Rigler, I. (1994), *The Packaging and Packaging Waste Directive Lobbying at the European Parliament, ERRA-Report. Brussel.*
- Rometsch, D., Wessels, W. (1994), 'The Commission and the Council of Ministers', in Edwards, G.S., D. (Ed.), *The European Commission* (202-224), Harlow: Longman.
- Schmitter, P. (1979), 'Still the Century of Corporatism?', in Schmitter, P., Lehmbruch, G. (Ed.), *Trends Towards Corporatist Intermediation* (7-49), London: Sage.
- Shepsle, K.A. (1989), 'Studying Institutions. Some Lessons From the Rational Choice Approach', in *Journal of Theoretical Politics*, 1, 2: 131-147.
- Shepsle, K.A., Bonchek, M.S. (1997), *Analyzing Politics*, New York: Norton.
- Sidjanski, D. (1967), 'Pressure Groups and the European Economic Community', in *Government and Opposition*. 397-416.
- Sidjanski, D., Ayberk, U. (1974), 'Bilan des groupes et du processus de décision dans la communauté des six', in *Res Publica*, 16, 1: 33-62.
- Sidjanski, D. (1982), 'Les groupes de pression dans la communauté européenne', in *Il Politico*, 47, 3: 539-560.
- Smith, M.J. (1990), 'Pluralism, Reformed Pluralism and Neopluralism: The Role of Pressure Groups in Policy-Making', in *Political Studies*, 38: 302-322.

- Smith, M.J. (1992), *Pressure, Power and Policy*, London: Harvester Wheatsheaf.
- Steunenberg, B. (1994), 'Decision Making Under Different Institutional Arrangements: Legislation by the European Community', in *Journal of Institutional and Theoretical Economics*, 150, 4: 642-669.
- Steunenberg, B. (1997), 'Codecision and its Reform', in Steunenberg, B., van Vught, F. (Ed.), *Political Institutions and Public Policy. Perspectives on European Decision-Making* (205-230), Dordrecht: Kluwer.
- Thelen, K., Steinmo, S. (1992), 'Historical Institutionalism in Comparative Politics', in Steinmo, S., Thelen, K., Longstreth, F. (Ed.), *Structuring Politics*, Cambridge: Cambridge UP.
- Tsebelis, G. (1994), 'The Power of the European Parliament as a Conditional Agenda-Setter', in *American Journal of Political Research*, 88, 1: 128-142.
- Tsebelis, G., Garrett, G. (1996), 'Agenda Setting Power, Power Indices and Decision Making in the European Union', in *Review of Law and Economics*, 16, 3: 345-361.
- Van Waarden, F. (1992), 'Dimensions and Types of Policy Networks', in *European Journal of Political Research*, 21, 1-2: 29-52.
- Vogel, D. (1997), 'Trading Up and Governing Across: Transnational Governance and Environmental Protection', in *Journal of European Public Policy*, 4, 4: 572-591.
- Westlake, M. (1994), 'The Commission and the Parliament', in Edwards, G., Spence, D. (Ed.), *The European Commission* (225-248), Harlow: Longman.
- Wilson, F.L. (1983), 'Interest Groups and Politics in Western Europe: The Neo-Corporatist Approach', in *Comparative Politics*, 16, 1: 105-123.

**Annex:
the Packaging and Packaging Waste Directive
decision-making process**



**The Packaging and Packaging Waste Decision-making process
following the codecision-procedure (art. 189B Maastricht Treaty) – Part 1**



The Packaging and Packaging Waste Decision-making process following the codecision-procedure (art. 189B Maastricht Treaty) – Part 2