

# EU Climate and Energy Policy: A Hesitant Supranational Turn?

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## Introduction

Since 2009, the European Union has a new and more vigorous climate and energy policy, including a specific climate and energy policy package and a revised policy package aimed at completing the realization of the internal energy market. In March 2007, the European Council prompted adoption of these packages to reduce total EU greenhouse gas emissions by 20 percent. The Council also signaled that restructuring of energy supply and demand should be an important part of the new climate policy, adopting a binding target of 20 percent renewables in total energy consumption and a non-binding target of 20 percent energy efficiency compared to business-as-usual by the year 2020. The Council cited improving the security of energy supply as an important goal and endorsed the need for speed in finalizing the internal market to ensure efficient implementation of the new policy targets.

Two major elements of this climate and energy policy package were a revised EU Emissions Trading System (ETS) and a new Directive on Renewables (RES).<sup>1</sup> Central to the internal energy market policy package (IEM) were provisions aimed at ensuring the independent operation of transmission grids in the EU, as well as further grid investments to remove bottlenecks and promote trade across Member States.

Given the relatively strong signals from the European Council for a new pace in climate and energy governance at the EU level, section three of this article discusses to what extent the new policies represent a clear supranational turn in EU ETS, RES, and IEM governance. These policies have a long history of political conflict, with some former policy proposals scrapped (like the energy/

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1. See Depledge 2009.

carbon tax proposal of the 1990s) or adopted only after the hesitation of some states led to major revisions that allowed Member States to retain greater control.<sup>2</sup> We present empirical material showing substantial differences between policy outcomes in the three areas in terms of “vertical integration,” the operational concept applied to determine whether the new policies really marked a turn in transfer of authority to the EU level or not.<sup>3</sup> Three main criteria are used to measure vertical integration: degree of legal bindingness, degree of harmonization, and degree of EU-level institution-building.

Section four discusses tentative explanations of the differences observed in vertical integration across the three policy areas. Are explanations to be found internally (at the Member State or EU levels) or in factors outside the EU, for instance in the interaction between EU policy-making and relevant international institutions? The analysis follows from the analytical framework developed in section two, building on perspectives from international relations theory: *intergovernmentalism*, *supranationalism*, and *institutional interaction*. Section five summarizes main findings, with reflections on the developing character of EU climate and energy policy.

Comparing outcomes from the three policy areas is admittedly a tall order, as each policy case reflects the influence of a complex of factors. Nevertheless, the differences observed in our dependent variable—degree of vertical integration—offer a basis for discussing observed differences in the chosen explanatory factors. Given the complexity involved, we provide only a preliminary and tentative explanation that requires development and refinement in subsequent studies. Further details about the processes examined have already been published separately.<sup>4</sup> Empirical data were collected from study of EU, national policy and interest group documents, secondary news sources like ENDS Daily, and through a string of semi-structured interviews with central stakeholders engaged in EU policy-making over a four-year period.

## Elaborating the Analytical Framework

As noted by Benson and Jordan, “the EU has evolved from an economically based international organization into a complex, multilevel system of governance that strongly affects the environmental policies of its member states.”<sup>5</sup> Given this, we agree with Schimmelfennig and Rittberger that “a combination of the factors and conditions postulated by different theories of integration may be necessary to account for phenomena of sectoral, vertical, and horizontal integration.”<sup>6</sup>

The two international relations perspectives of *liberal intergovernmentalism*

2. See Skjærseth 1994; and Wettestad 2001.

3. E.g. Schimmelfennig and Rittberger 2006; Lenschow 2006; and Olsen 2007.

4. Eikeland 2008; 2011; Nilsson Nilsson, Nilsson, and Ericsson 2009; and Wettestad 2009a and b.

5. Benson and Jordan 2010, 122.

6. Schimmelfennig and Rittberger 2006, 92.

and *supranationalism* have been extensively applied in studying the EU as a polity and explaining the long-term evolution of European integration.<sup>7</sup> The former sees EU as an international regime and EU integration as the product of the interests of sovereign Member-State governments and the majority coalition of these within the European Council.<sup>8</sup> Member-State preferences are seen as issue-specific, shaped through bargaining with main societal interest groups, such as the dominant national energy producers and consumers.<sup>9</sup> EU policy outputs are seen as the product of intergovernmental bargaining processes, where a prime concern for governments is future compliance with the substantive deals reached. As noted by Schimmelfennig and Rittberger:

by transferring sovereignty to international institutions, governments remove issues from the influence of domestic politics, which might build up pressure for non-compliance if costs for powerful domestic actors are high . . . The degree to which governments favour . . . the delegation of sovereignty to supranational institutions depends on *the value they place on the issues and substantive outcomes* . . . The higher the gains of a cooperative agreement for a government, and the higher the risk of non-compliance by other governments, the higher its readiness to cede competences to the EU to prevent potential losers from revising the policy.<sup>10</sup>

We start from the proposition that increasing vertical climate and energy policy integration stems from Member-State governments placing greater emphasis on outcomes in these issue areas, combined with an increasing view that non-harmonized solutions and governmental non-compliance would damage national interests. Evidence that these elements differ among the policy areas studied would strengthen an intergovernmentalist interpretation of differences in vertical integration.

Supranationalism offers a different view, portraying EU-level institutions in more autonomous terms in which they are able to utilize the significant gaps in Member State control over the process of European integration in day-to-day policy-making.<sup>11</sup> The supranational view builds on early neo-functionalist studies predicting that EU-level institutions would gradually gain power at the expense of Member-State governments, through functional spillover from integration already underway in other sectors, with the establishment of European institutions sponsoring further integration, to which interest groups would turn their allegiance.<sup>12</sup>

While no longer relying on functionalist explanations, the supranationalist position has retained other elements from these studies: the genuine au-

7. See George, 2004; Moravcsik 1993; and Moravcsik and Schimmelfennig 2009.

8. Hoffmann 1964; 1966; and Moravcsik, 1993.

9. Schimmelfennig and Rittberger 2006, 82.

10. Schimmelfennig and Rittberger 2006, 83, emphasis added.

11. Pierson 1998; and Marks, Hooghe and Blank 1996; see also discussions about federalism and subsidiarity, e.g. Hix 2007.

12. Haas 1958; Lindberg 1963; and Schmitter 1970.

tonomy of supranational institutions from Member-State governments, and the pluralist understanding of national and EU policy-making, with nongovernmental agents engaged in intra-EU exchange capable of influencing processes and outcomes.<sup>13</sup> Various factors have been cited as constraining individual governments' full control over EU decision-making: the use of qualified majority voting in the Council, a culture in the Council working against frequent use of the veto option, and the ability of supranational institutions, like the Commission, to exploit transnational networks of nongovernmental agents to promote their own policy preferences within the "domestic" politics of Member States.<sup>14</sup>

A key point for supranationalist theories is that increasing transnational (economic) activity creates room for a more prominent role for supranational actors like the European Commission (hereafter: Commission) and European Parliament (hereafter: Parliament). Multinational private companies and organizations tend to adopt perspectives more aligned with transnational and EU perspectives, forming coalitions to direct their demands to supranational institutions while bypassing the state.<sup>15</sup> Hence:

integration is likely to progress if it increases transnational actors' expected utility and the degree to which supranational actors possess and are able to make use of their capacity to further the interests of transnational actors. *Variation in scope of integration reflects variation in the relative intensity of transnational activity and capacity of supranational actors.*<sup>16</sup>

Furthermore, one obvious precondition for strong supranational governance is unity within and between supranational institutions on *specific* vertical integration solutions. At the outset, the Commission can be seen as having the development of vertical integration as a major *raison d'être*, but this does not preclude differing views within the various Commission services on specific vertical integration-solutions. As to parliamentarians, they could either be seen as seeking to defend integrated EU-level solutions or simply national interests.

Differing propositions may be extracted from this growing literature.<sup>17</sup> For simplicity and comparability, this study focuses on changes in the role played by the Commission and the Parliament as supranational institutions in the ETS, RES, and IEM policy processes. We propose that increasing vertical climate and energy policy integration stems from the more prominent and influential role played by supranational actors in the decision-making processes. If this dy-

13. Sandholtz and Zysman 1989; and Sweet and Sandholz 1997.

14. Marks, Hooghe and Blank 1996; Sweet and Sandholz 1997; Hooghe and Marks 2001; and Bache and George 2006, 34–35.

15. However, the strength of this (at least in the case of the Commission) is debatable. See e.g. Hix 2007, 145–146.

16. Schimmelfennig and Rittberger 2006, 91, emphasis added.

17. See footnote 14 for some important references. Furthermore, for instance, Pollack (1994; 2000) discusses how an approach drawing on differing policy types can shed light on the conditions under which supranational logics win/lose against intergovernmental logics.

dynamic differs among policies, then that may explain differences in the development of integration.

Besides these EU-internal perspectives, a third, external institutional interaction perspective has attracted increasing attention in recent years.<sup>18</sup> Scholars have recently urged those studying EU decision-making to pay greater attention to the other international institutions with which it interacts. Might the development of EU vertical integration be explained not by internal factors at all, but by interactions with external institutions and organizations? For instance, the EU is party to the 1997 Kyoto Protocol, is committed to reducing greenhouse gas emissions by 8 percent by 2008–12, and is linked to the flexibility mechanisms in the Protocol: emissions trading, the Clean Development Mechanism (CDM), and Joint Implementation (JI). Moreover, as the EU is a net importer of energy, its energy policy-making is fundamentally nested in the institutionalized international oil and gas policy order established by OPEC in oil supply and neighboring countries in gas supply, with a more regional market character. The interdependence between EU and external suppliers of energy has long produced concerns for security of supply, with national and EU-level efforts to reduce EU vulnerability to politically-motivated cuts in energy supply.

We propose that increasing vertical integration in climate and energy policy might come from changes in the global climate regime and/or changes in policies adopted by supplier countries, evoking new security-of-supply concerns within the EU. If international developments and links have affected the three focused policies differently, then that may explain differences in the development of integration.

## A Hesitant Supranational Turn? Three Cases

### *Renewable Energy: A Slight Increase?*

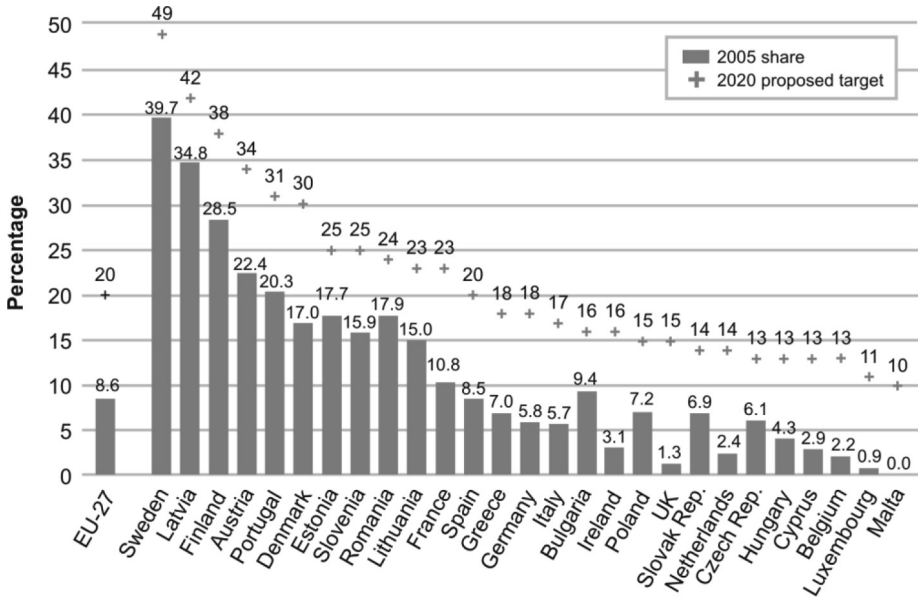
Turning first to renewable energy,<sup>19</sup> we adopt as a baseline Directive 2001/77/EC on the promotion of electricity produced from renewable sources. The EU adopted this directive after several years of negotiation, finally establishing a fundamentally decentralized approach.<sup>20</sup> It set an overall EU-level target of 22 percent electricity from renewables by 2010 but only made this target “indicative.” Targets for Member States were made non-binding.<sup>21</sup> The modesty of vertical integration also was reflected in efforts to achieve common, or even coordinated, policy instruments: attempts to create a common instrument through Tradable Renewable Electricity Certificates ultimately failed. Guarantees of ori-

18. See Weale et al. 2000; Skjærseth and Wettestad 2002; and Oberthür and Gehring 2006.

19. Nilsson et al. 2009.

20. Rowlands 2005.

21. The 12 countries that have joined the EU after 2001 have also taken on national targets, reducing the overall target to 21 percent.



**Figure 1**  
Renewable Targets 2009

Source: European Parliament and Council of European Union. 2009.

gin were introduced, but only for the purpose of disclosure: to verify the energy source, time, and place of the electricity production from RES.<sup>22</sup>

Directive 2009/28, adopted in December 2008, introduced changes relative to this baseline. The new Directive brought more issues under the EU's legislative grip, targeting "energy" broadly, including electricity, heating, and bio-fuels for transport. It also established renewed individual targets for each Member State. These targets were both binding and more ambitious with respect to volumes of new renewable energy (see Figure 1). Furthermore, Member States were required to develop national action plans to achieve these targets.

With regard to certificate trading, also debated vigorously at that time, certain changes were introduced. Some voluntary "flexible mechanisms" were established, including allowance of "statistical transfers" of RES between countries as well as joint support schemes and joint projects. But the mandatory introduction of a trading system, as initially proposed by the Commission, was

22. It was noted that "This Directive does not require Member States to recognise the purchase of a guarantee of origin from other Member States or the corresponding purchase of electricity as a contribution to the fulfillment of a national quota obligation" and "Schemes of the guarantee of origin do not by themselves imply a right to benefit from national support mechanisms established in different Member States." See European Parliament and Council of European Union 2001.

not included in the final Directive. In important respects, the new Directive represents continuity rather than change. Still, we note a marked strengthening of policy and the role of the EU institutions in the 2009 Directive compared to the 2001 Directive. Targets were made legally binding. On the other hand, little progress was reached on harmonization. Our overall assessment is therefore of *moderately increasing* vertical integration in this issue-area.

*Revised Emissions Trading: A Significantly More Centralized System*

The initial EU Emissions Trading System (ETS) was based on Directive 2003/87/EC, which established a fundamentally decentralized system for the pilot phase of emissions trading (2005 to 2007) and the Kyoto Protocol commitment phase (2008 to 2012).<sup>23</sup> Member States were authorized to determine the total “cap” of emission quotas (“allowances”) to be handed out to participating industries, the distribution of allowances among sectors and actors/installations within each industry (with power producers as main targets but also some energy-intensive industries), and several other allocation matters. The key instrument here was the preparation of National Allocation Plans (NAPs).

The Commission was relegated to a sidelined, watchdog role regarding the extent to which Member States adhered to the common NAP guidelines of the Directive—the 11 criteria listed in Annex III. Setting a common EU cap on total allowances had been discussed in the decision-making process and promoted primarily by the Parliament—but this integration idea was rejected by the Member States. The ETS was formally launched in 2005 but did not function very well initially, as seen in the volatile carbon price which approached zero toward the end of the pilot phase.

The revised ETS for the period 2013 to 2020, adopted in December 2008 and published as Directive 2009/29/EC, introduced substantial changes.<sup>24</sup> NAPs were abolished; an EU-wide ETS emission cap was introduced (a 21 percent reduction by 2020 in relation to 2005 levels); and national allocations were to be derived from this common cap, based on a fixed model producing linear emissions reductions ending up in the agreed 21 percent reduction. Sectoral differentiation was introduced, with (initially) far more auctioning of allowances for energy producers than energy-intensive industries. In addition, free allocations were further harmonized, to be based on common state-of-the-art technology benchmarks.

The role of the Commission as the main overseer and designer of the further development of the system was strengthened. For instance, if a “satisfactory” new global climate agreement is adopted and the EU increases its overall target from 20 to 30 percent, the Commission will have a key role in the subsequent ETS adjustment process. Overall, we see a *significant increase* in vertical

23. See e.g. Damro and Luaces-Mendez 2003; and Skjærseth and Wettestad 2008.

24. Wettestad 2009b; and Skjærseth and Wettestad 2010a and b.



integration in this issue area. This is particularly evident in the considerably more harmonized policy and the substantially strengthened role for EU-level institutions.

*Energy Market Policy: Another Case of Slight Centralization?*

The idea of a common internal energy market (IEM) was launched in the late 1980s. The first electricity and gas market directives adopted in the late 1990s were revised as part of a second IEM package in 2003, entitling all consumers to trade freely in energy as of 2007. However, this was not followed up by adequate harmonization of provisions safeguarding independent operations of national grids. Without transparent, non-discriminating and harmonized grid access rules, the right of producers and consumers to choose freely in the market would not produce *de facto* rights. Some progress was made in harmonization of transparency rules and mandatory organizational split was instructed for transmission companies' grid-operation and production/supply activities (*legal unbundling*).<sup>25</sup>

The Commission had long preferred *mandatory* ownership unbundling as the safest model to avoid discrimination, and proposed this as part of the third IEM policy package.<sup>26</sup> That was not accepted, however, and Member States may still choose less demanding options. Somewhat greater vertical integration followed from authority given to new EU-level institutions in two new regulations adopted. Ongoing *voluntary* cooperation on harmonizing grid operation rules and removing obstacles to cross-border energy trade, conducted by national transmission system operators and regulatory authorities, would now be carried out in new EU-level organizations (Agency for the Cooperation of Energy Regulators and European Network of Transmission System Operators). The competencies of the former are mostly in advising, monitoring and reporting activities, with power to make binding individual decisions if national regulators cannot agree on common terms and conditions for access and operational security for cross-border infrastructure. The main tasks of the latter are to prepare codes for access to and use of pipelines and grids, and coordinate and ensure proper network planning and investments to prevent blackouts.

Summing up, the third IEM package represented a *moderate increase* of vertical integration compared to the *status quo ante*. No harmonized model safeguarding grid independence was adopted. Incremental vertical integration followed from new EU-level institution-building to facilitate work on making IEM provisions harmonized and binding in the future. The new institutions are controlled by national governmental actors and have very limited powers for instructing Member States unless consensus has already been reached on

25. Eikeland 2008; 2011.

26. European Commission 2007.



**Table 1**  
Summary of Vertical Integration Scores

	<i>Change in legally binding character</i>	<i>Change in degree of harmonization</i>	<i>Change in degree of EU institution-building</i>	<i>Summary score of change in vertical integration</i>
EU-ETS	Yes	High	Medium	Significantly increasing
RES	Yes	Low	Medium	Moderately increasing
IEM	No	Medium	High	Moderately increasing

common IEM provisions, making them binding EU legislation through the comitology procedure.

Table 1 summarizes the vertical integration score of the three cases, in relation to the three selected criteria:

How, then, can we explain these differing developments?

*The Intergovernmentalist Perspective: Changing Member State Priorities and Concerns Regarding Non-compliance?*

Is it reasonable to conclude that Member State governments perceived vertical integration as serving their interests more in the ETS than the other cases, supporting an intergovernmentalist explanation of different vertical integration developments? It seems clear that public opinion gave stronger backing for actions to lower climate-change emissions, including through promotion of renewable energy, as well as actions to improve security of supply. In 2007, 57 percent of the respondents to a Eurobarometer survey cited climate change as their main worry, steadily rising from 39 percent in 2003.<sup>27</sup> A related survey on attitudes on energy-policy issues also showed heightened security-of-supply concerns following gas-supply interruptions caused by pipeline closure after conflicts between Russia and neighboring countries.<sup>28</sup> Importantly, that survey also indicated that two-thirds of the respondents favored energy policy being set at the EU, rather than national, level.

We also observe a parallel development in favor of EU-level solutions in the ETS case. The decentralized initial ETS led to a certain “race to the bottom” dynamic.<sup>29</sup> Member States began producing NAPs under considerable time-

27. European Commission 2008a.

28. European Commission 2007.

29. Skjærseth and Wettestad 2008.

pressure and with little consultation with others, based on flexible EU guidelines. In 2006, an analyst remarked that there is no such thing as an EU ETS: “there are 27 differing systems.” There were growing suspicions that many countries were handing out allowances to domestic industries in a very generous manner. The UK—ETS heavyweight and frontrunner—was becoming increasingly frustrated with the lax NAPs produced by other Member States, leading a senior British government official to state in October 2006 that the ETS needed “real scarcity and *more harmonization*.”<sup>30</sup> In stakeholder consultation meetings held within the European Climate Change Programme’s ETS review working group in 2007, the mood among stakeholders, including Member State representatives, was for greater harmonization. According to the Chairman, “there [was] a unanimous call for improved cap setting . . . [and] a general, very strong message calling for more harmonization, if not a centralized EU cap.”<sup>31</sup> Interviews with Brussels insiders confirm that this position was held by a clear majority of Member States.<sup>32</sup>

Given the ETS’ coverage of important economic sectors and activities, the decentralized approach allowed some countries to treat domestic industries more generously, which threatened national competitiveness and the goal of a level EU economic playing-field.<sup>33</sup> Furthermore, given the cornerstone role of the ETS and the rather direct linkage between ETS functioning and the ability of the EU to comply with international targets, possible Member State free-riding on the efforts of others became a serious matter. In sum, the Member States saw clear national sense in greater vertical integration of the revised ETS, which gives support to the intergovernmental perspective on EU policy-making.

Also in the RES case, vociferous demands for more centralized action appeared from some Member States, but, compared to the case of emissions trading, Member States seemed much more split on the future level of EU regulation. Germany and Spain, backed by EU newcomers like Slovenia and Latvia, were highly skeptical of the development of EU-level trading mechanisms. Another group, consisting of the UK, Belgium, Denmark, Italy, Luxembourg, and Sweden, supported the development of such mechanisms and stronger harmonization.

The established national policy mixes for stimulating the growth of renewables varied considerably. Germany and Spain had established generous feed-in tariff (FIT) schemes to support the development of renewable energy in the 1990s, not only for climate policy and security-of-supply reasons but to support industrial development and employment.<sup>34</sup> Others—notably Sweden and

30. *EU Energy* 2006, 24; italics added.

31. *EU Energy* 2006, 3.

32. Interviews with central Commission officials in Brussels conducted in October 2008 and May 2009.

33. This was discussed in the Green Paper on the ETS, published in 2000. European Commission 2000.

34. Eikeland 2004.

the UK—had less generous support systems and relied on market-based systems. The proposed move toward centrally governed flexibility mechanisms and the trading of Guarantees of Origin seemed to threaten the further functioning of the well-established FIT schemes, while concerns voiced by industries and Member States supportive of harmonized trading schemes centered on problems that differential state support systems could pose for level playing-field competition among electricity companies in the EU energy market. All in all, the argument that national industrial interests could suffer without increased vertical integration was counteracted by the argument that national solutions would best serve national industrial interests. Accordingly, no strong Member State pressure existed to develop more harmonized EU policies.

In the IEM case, a strong group of Member States supported greater EU-level coordination, including mandatory ownership unbundling. However, the group of blocking countries proved too powerful. Unsurprisingly, the former group included the UK and the Nordic countries, frontrunners in energy deregulation in Europe, with voluntary ownership unbundling implemented already in the 1990s. Other Member States followed suit at a later stage, including the Netherlands, Italy and Spain. By 2007, thirteen Member States had implemented voluntary ownership unbundling for the electricity sector and ten for the gas sector.<sup>35</sup> The latter group of countries was led by Germany and France but included Luxembourg, Austria, Greece, and some of the new Eastern newcomers. As indicated by the Commission's subsequent "benchmarking reports" that tracked the annual pace of Member State implementation of liberalization policies from 2000 onwards, this group of countries had a continuous record of lagging behind in implementing procedures needed for realizing the internal energy market.

Some frontrunner Member States were certainly concerned that asymmetries in national IEM implementation represented a potential threat to the long-term survival of their national industries. These worries were reinforced by a wave of mergers and acquisitions among European energy companies, with fears that companies more strongly protected in their national home markets would gain more strength, resulting in even larger market shares through take-over of companies subject to competitive pressures at home. However, unlike the ETS case, a strong alliance of Member States appeared to fear dismantling of their national industries more than the suboptimal functioning of the existing system. Several Member-State governments argued forcefully that dismantling existing vertically integrated structures would fundamentally jeopardize security of supply in Europe. Both Germany and France argued that weakening national companies would reduce their clout in negotiations with strong foreign upstream supply companies. Instead, the German government endorsed further vertical integration by Russian Gazprom in the German market in return for German acquisitions in Russia, reasoning that cross-ownership would provide

35. European Commission 2008a.

shared commercial interests in ensuring uninterrupted supplies. This strategy fit poorly with the solution preferred by the Member States supporting vertical disintegration through ownership unbundling, who argued that the best security-of-supply strategy would be to speak with one voice in energy-political talks with foreign governments and companies and to loosen restrictions on the flow of energy within the Community.

Deeper understanding of Member State positions on the three policy cases can be gained by examining the institutional fit (or misfit) with policy solutions already in place in the Member States.<sup>36</sup> The various policy proposals came up against deeply-institutionalized energy policies rooted in differing national regulatory practices. Britain epitomized a “liberalist” tradition, introducing market-based trade, privatization and independent regulatory agencies long before these ideas gained a foothold at the EU level. Britain also promoted flexible trading in renewables, and took the lead in advocating this solution for the EU as a whole. This regulatory style had its roots in the neoliberal economic policy ideas implemented under Margaret Thatcher from 1979 to 1990.

Fundamentally different regulatory traditions prevailed in other parts of Europe. France, for example, stands as the archetypal strong state, with a long history of state intervention in numerous domains, including the energy sector. France has used strong vertically integrated state-owned utilities in electricity and gas supply as instruments in French domestic and foreign policies. France was instrumental in formulating provisions in the first electricity directive that gave Member States the right to derogations if they chose to instruct their national industries to take on public service obligations, including security of supply and environmental protection.<sup>37</sup> France has consistently argued against EU energy policies that threaten to dismantle large state-owned companies. France also has sought to maintain autonomy in deciding RES instruments but supported strong vertical integration in the ETS case—perhaps not so strange, given its major fossil-free nuclear power industry.

Germany, as another example, evolved with its federal structure as a relatively weak state with divided authority, multiple veto points and veto players. It developed a system of strong partnerships with major private interests in the governance of social welfare, which left the state open to capture by these established social partners. In energy supply, major private companies filled this role as social welfare partners, providing employment, industrial development, security of supply, and environmental investments in exchange for generous state subsidies and governance by agreements. Germany was initially skeptical of the ETS, forcefully backed by the energy industry that preferred the voluntary energy efficiency agreements established with the government. Industry and government later shifted their stance. There is evidence that the transnational federation of European electricity companies, Eurelectric, was instrumental in pressing German industry toward an all-European solution, arguing that trans-

36. See Boerzel 2003; Knill and Lenschow 2005; and Voss 2007.

37. Eikeland 2004.

national companies should encounter similar regulatory conditions across their markets.<sup>38</sup>

All in all, the stronger call for more centralized action in the ETS case than in the other two cases reflects shared perceptions that non-harmonized policies in this field would threaten national interests—as suggested by intergovernmentalist theory.

### *Supranational Lenses: Changing Roles of Supranational Actors?*

What role then, did the supranational institutions play? Were the Commission and the Parliament internally united? Did they cooperate smoothly, strengthening supranational influence? And did these institutions develop new entrepreneurial modes of governance that strengthened the chances of convincing Member States to accept stronger vertical integration, such as new well-functioning alliances with relevant interest groups and stakeholders capable of influencing Member-State governments?

We note some interesting differences across the cases. In initiating the ETS, despite some differing views between DG Environment and particularly DG Enterprise, the level of internal conflict was moderate. The Commission had initially preferred a quite centralized design, based *inter alia* on experiences from US sulfur and NO<sub>x</sub> trading. But, due to opposition from industry and Member States, the Commission backed down in favor of a fundamentally decentralized system before the ETS Directive proposal was put forward in 2001.

When the ETS revision started in 2006, the Commission was even keener on a more centralized approach because of bad experiences with the decentralized initial ETS—not least in the processes of designing NAPs. Member states had been producing widely varying NAPs, making it difficult for the Directorate General (DG) for Environment to compare and assess their quality. Moreover, the fact that a broad group of stakeholders agreed that the pilot phase had functioned poorly meant that the Commission's preferences for a more centralized approach could now be proposed with greater support. The EU's ability to comply with its Kyoto Protocol target seemed uncertain as preliminary progress proved unconvincing—and the Commission probably felt that this further strengthened its hand in pushing for centralization. As to the role of the Parliament, this body pushed unsuccessfully for a more centralized ETS also before it was first adopted in 2003, long after the Commission had given up. When the decision-making process on the revised ETS began in 2008, the Parliament was a strong ally of the Commission from the very start.

The situation for renewable energy evolved somewhat differently. In the 1990s, the Commission had argued strongly for harmonization of a joint renewable certificate trading policy,<sup>39</sup> but less unity evolved among the various Commission services participating in the development of the new energy and

38. Interview with John Scowcroft, Eurelectric, December 17, 2010

39. European Commission 1997; and Lauber 2007.

climate policy package. DG Environment supported the trading instruments while DG Energy pushed for the more limited statistical transfer mechanism. In 2005, DG Energy concluded that *well-adapted* feed-in tariff regimes are generally the most efficient and effective support schemes for promoting renewable electricity.<sup>40</sup> In 2008, another Commission staff working paper confirmed this finding: “the harmonisation of support schemes remains a long term goal on economic efficiency, single market and state aid grounds, but . . . harmonisation in the short term is not appropriate. By adopting best practices or combining national support schemes Member States can continue to reform, optimize and coordinate their efforts to support renewable electricity.”<sup>41</sup>

Besides internal discussion, the Commission also acknowledged that the trading instrument would have difficulties being accepted not only in the Council but also in the Parliament where powerful forces, aligning with interest groups in renewable energy, backed existing national support schemes. The Parliament evolved as an important arena for advocacy influence, referred to as the “networking hub” of the European Forum for Renewable Energy Sources (EUFORES), which also included Member State parliamentarians, a broad range of renewable-energy industries, and Commission representatives.<sup>42</sup> Transnational coalitions across industries and NGOs managed to team up with Member States that were against harmonization and reverse the momentum, counter to the Commission’s earlier drive toward vertical integration.<sup>43</sup> While transnationalization of actors like the renewables industry created momentum for a European policy framework, the same industry played out against harmonized instruments. Given the lack of unity with EU bodies, policy change toward more vertical integration became clearly hesitant.

As to the energy market case, from the Commission’s point of view, a new situation with a clearer mandate had appeared after the European Heads of State meeting at Hampton Court (UK) in late 2005 had called for a true European Energy Policy to tackle security-of-supply and climate-change issues. New cooperative arrangements appeared between the Commission services, creating greater unity in pushing for harmonized solutions. This was epitomized by the more prominent role assigned to DG Competition under the presidency of Barroso from 2005. Although earlier bypassed in applying its latent powers under the EU Treaty, DG Competition now joined forces with DG Energy, co-launching a major inquiry into competitive conditions in European energy markets and co-drafting the new internal energy market policy package. Such co-drafting of new legislation was unique in the workings of the Commission, normally bound by a norm that DGs do not interfere in each other’s policy domains.<sup>44</sup> In parallel, DG Competition opened cases with the European Court of

40. European Commission 2005.

41. European Commission 2008b.

42. Boasson and Wettestad 2010.

43. Toke 2008; and Nilsson et al. 2009.

44. Information received in interview with senior Commission official, February 2008.

Justice against major gas and electricity utilities suspected of breaching Community competition rules, offering reduced fines in return for *voluntary* ownership unbundling. Apparently, the Commission hoped this new strategy would influence the blocking minority of recalcitrant governments on the issue of mandatory ownership unbundling.

The Commission also was encouraged by the fact that a clear majority in the Parliament supported mandatory ownership unbundling, although with a strong minority group still opposed. Cutting across party lines, the positions of the two groups overlapped considerably with the various national positions taken in the Council.

*The External Interaction Perspective: Responding to Global Developments and Requirements?*

The new EU climate and energy policy was not adopted in a vacuum. Regarding the global climate regime, it can be argued that slow progress in the discussions on a post-2012 agreement and the related perceived need for enhanced EU leadership strengthened the case for a stronger and more centralized EU policy. This perspective played out most strongly in the case of the ETS.

First, EU policy-makers themselves refer to the ETS as the “cornerstone” of EU climate policy, so it can be argued that “getting the ETS house in order” became particularly important in order to appear convincing on the global climate-policy scene. Second, the ETS is structurally linked to the global climate regime, through the possibility for EU companies to use credits from the Kyoto Protocol’s flexibility mechanisms (Clean Development Mechanism and Joint Implementation) for compliance purposes in the ETS. Although this possibility enhances the cost-effectiveness of the system, it also introduces uncertainty about a possible “flooding of the ETS” by external credits that place downward pressure on the carbon price. Hence, the uncertainty related to this global link may have strengthened the hand of a broad range of EU actors supportive of stronger, more central governance of the ETS as a means of addressing such external challenges.

No similar formal global regimes exist that interacted with the development of renewable and internal energy market policy. That does not mean that important external political and institutional factors were absent with respect to the RES and IEM policy cases. The EU is a net importer of fossil fuels that depends on OPEC for oil and on Russia for natural gas—areas not particularly renowned for political stability and predictability. Various events and development traits raised the security-of-supply problem on the European policy agenda after 2000. The EU saw rising import dependencies with the inclusion of new Member States, higher import rates of natural gas, and dwindling fossil fuel resources in the North Sea. Increasing demand from China and other high-growth economies tightened international competition for fossil fuels and caused price hikes. New worries over the security of gas supplies came with the



growing influence of Russia in European energy supply after state-controlled Gazprom acquired several European wholesale companies. Mistrust was further accentuated when Gazprom in early 2006 held back gas supplies on the pipeline to Europe after escalating political and commercial conflicts with Ukraine.

These external events played differently into the debates on the RES and IEM policies, however. They reinforced the view that more ambitious overall binding targets for indigenous renewable energy at the EU level would reduce import dependencies as well as the view that the most effective way of achieving short-term results would be to continue with the differentiated support systems as a model for policy learning across Member States. The events accentuated existing conflicts in the IEM case, providing arguments to both groups of Member States as to which policy models could best create stability in EU-Russian energy supply relationships: a stronger commercial binding through cross-ownership between the major vertically integrated companies, or a full split to reduce the market dominance of the major suppliers combined with greater unity in EU external energy diplomacy.

### **Conclusion: Complex Causes for Differential Vertical Integration**

Our analysis lends support to combining different theoretical lenses for analyzing policy changes in today's increasingly complex EU. It confirms some structural facts about EU policy-making: Member-State governments still have a central position and policy issues where power is transferred to the EU level tend to be those where Member States see such transfers as in their interest. There was consensus among Member States that lack of vertical integration in the ETS case would harm national interests. Such a consensus was absent in the RES and IEM cases, where several Member States claimed that the vertical integration being proposed by the European Commission would threaten vital interests.

However, we have also seen that supranational institutions, notably the Commission, have considerable autonomy to push for EU-level solutions. This is best illustrated by the IEM case where the Commission's preferred solution failed to survive counterattack by Member-State governments but where the Commission promoted its position by using other tactics, notably by targeting industry directly. The Commission thereby laid the foundation for future changes in Member-State governmental preferences—there would be no convincing reason to fight against ownership unbundling if national companies had already carried out such ownership unbundling after direct pressure from the Commission.

Our findings also support the notion that unity in policy positions within and between EU institutions affect whether EU institutions will play a successful entrepreneurial role or not. Unity in positions was greatest between and within the EU institutions in the ETS case. Those institutions played important entrepreneurial roles in building consensus and providing input to Member-State governments on why lack of vertical integration would harm national interests

supported by the bad experience of the “old ETS.” The RES case showed less unity behind the proposal for strict vertical integration as initially proposed by the Commission. The IEM case showed great unity within the Commission, backed by support from a parliamentary majority, but with a large minority group weakening the authority of the Parliament.

An institutional interaction perspective highlights how international events and institutions have interacted with EU processes, consolidating existing positions—sometimes in favor of stronger EU-level solutions, but at other times in favor of Member States retaining power. Thus, although external factors may be important as driving forces, this study has revealed their case-specificity: external factors sometimes work for EU-level solutions and sometimes against them.

## References

- Bache, Ian, and Stephen George. 2006. *Politics in the European Union*, 2<sup>nd</sup> ed. Oxford: Oxford University Press.
- Benson, David, and Andrew Jordan. 2010. The Expansion of EU Climate Policy and its Future under the Lisbon Treaty. *St Antony's International Review* 5 (2): 121–140.
- Boasson, Elin Lerum, and Jørgen Wettestad. 2010. Comparing EU Emissions Trading and Renewables Governance. Paper presented at the Annual Convention of the International Studies Association, New Orleans.
- Boerzel, Tanja. 2003. *Environmental Leaders and Laggards in Europe. Why There is (Not) A Southern Problem*. Aldershot, UK: Ashgate.
- Damro, Chad, and Pilar Luaces-Mendez. 2003. Emissions Trading at Kyoto: From EU Resistance to Union Innovation. *Environmental Politics* 12 (2): 71–94.
- Depledge, Joanna. 2009. Climate Package Agreed. *Environmental Policy and Law* 39 (1): 66–67.
- Eikeland, Per Ove. 2004. *The Long and Winding Road to the Internal Energy Market: Consistencies and Inconsistencies in EU Policy*. FNI Report 8/2004. Lysaker, Norway: Fridtjof Nansen Institute.
- . 2008. *EU Internal Energy Market Policy: New Dynamics in the Brussels Policy Game?* FNI Report 14/2008. Lysaker, Norway: Fridtjof Nansen Institute.
- . 2011. The Third Internal Energy Market Package: New Power Relations among Member States, EU Institutions and Non-State Sectors? *Journal of Common Market Studies* 49 (2): 243–263.
- EU Energy*. 2006. 9.5 million New EUAs Planned for Phase 2 NAP. Issue 143, October 20: 24.
- European Commission. 1997. *Energy for the Future: Renewable Sources of Energy. White Paper for a Community Strategy and Action Plan*, COM(97)599. Brussels: European Commission.
- . 2000. Green Paper on Greenhouse Gas Emissions Trading within the European Union. COM(2000)87 final. 8 March. Brussels: European Commission.
- . 2005. *The Support of Electricity from Renewable Energy Sources*, COM (2005)627. Brussels: European Commission.
- . 2007. *Common Rules for the Internal Market in Electricity. Proposal for a Directive of*

- the European Parliament and of the Council Amending Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003, COM (2007)0528. Brussels: European Commission.
- . 2008a. *Attitudes of European Citizens Towards the Environment. Special Eurobarometer Report*. Brussels: European Commission.
- . 2008b. *The Support of Electricity from Renewable Energy Sources*, SEC (2008)57. Brussels: European Commission.
- European Parliament and Council of European Union. 2001. Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the Promotion of Electricity Produced from Renewable Sources in the Internal Electricity Market. *Official Journal* 27.10.2001, L283/33.
- . 2009. Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the Promotion of the Use of Energy from Renewable Sources and Amending and Subsequently Repealing Directives 2001/77/EC and 2003/30/EC. *Official Journal* 5.6.2009, L140/16.
- George, Stephen. 2004. Multi-level Governance and the European Union. In *Multi-level Governance*, edited by Ian Bache and Matthew Flinders, 107–26. Oxford: Oxford University Press.
- Haas, Ernst B. 1958. *The Uniting of Europe: Political, Social and Economic Forces 1950–57*. London: Library of World Affairs.
- Hix, Simon. 2007. The European Union as a Polity (I). In *Handbook of European Union Politics*, edited by Knud Erik Jørgensen, Mark A. Pollack and Ben Rosamond, 141–158. London: Sage.
- Hoffmann, Stanley. 1964. The European Process at Atlantic Cross Purposes. *Journal of Common Market Studies* 3 (2): 85–101.
- . 1966. Obstinate or Obsolete? The Fate of the Nation State and the Case of Western Europe. *Daedalus* 95 (3): 862–915.
- Hooghe, Liesbet, and Gary Marks. 2001. *Multi-Level Governance and European Integration*. Oxford: Rowman & Littlefield.
- Knill, Christoph, and Andrea Lenschow. 2005. Coercion, Competition and Communication: Different Approaches of European Governance and their Impact on National Institutions. *Journal of Common Market Studies* 43 (3): 583–606.
- Lauber, Volkmar. 2007. The Politics of European Union Support Schemes for Electricity from Renewable Energy Sources. In *Green Power Markets: Support Schemes, Case Studies and Perspectives*, edited by Lutz Mez, 9–30. Brentwood, CA: Multi-Science Publishing.
- Lenschow, Andrea. 2006. Environmental Policy in the European Union: Bridging Politics, Policy and Polity Dimensions. In *Handbook of European Union Politics*, edited by Knud Erik Jørgensen, Mark A. Pollack and Ben Rosamond, 413–431. London: Sage.
- Lindberg, Leon N. 1963. *The Political Dynamics of European Economic Integration*. Stanford, CA: Stanford University Press.
- Marks, Gary, Liesbet Hooghe and Kermit Blank. 1996. European Integration from the 1980s: State-centric vs. Multi-level Governance. *Journal of Common Market Studies* 34 (3): 341–378.
- Moravcsik, Andrew. 1993. Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach. *Journal of Common Market Studies* 31 (4): 473–524.
- . 1998. *The Choice for Europe*. Ithaca, NY: Cornell University Press.

- Moravcsik, Andrew, and Frank Schimmelfennig. 2009. Liberal Intergovernmentalism. In *European Integration Theory*, edited by Thomas Dietz and Antje Wiener, 67–87. Oxford: Oxford University Press.
- Nilsson, Måns, Lars Nilsson, and Karin Ericsson. 2009. The Rise and Fall of GO Trading in European Renewable Energy Policy: The Role of Advocacy and Policy Framing. *Energy Policy* 37 (11): 4454–4462.
- Oberthür, Sebastian, and Thomas Gehring, eds. 2006. *Institutional Interaction in Global Environmental Governance—Synergy and Conflict among International and EU Policies*. Cambridge, MA: MIT Press.
- Olsen, Johan P. 2007. *Europe in Search of a Political Order*. Oxford: Oxford University Press.
- Pierson, Paul. 1998. The Path to European Integration: A Historical Institutionalist Analysis.' In *European Integration and Supranational Governance*, edited by Wayne Sandholtz and Alec Stone Sweet, 27–58. Oxford: Oxford University Press.
- Pollack, Mark. 1994. Creeping Competence: The Expanding Agenda of the European Community. *Journal of Public Policy* 14 (2): 95–145.
- . 2000. The End of Creeping Competence? EU Policy-Making since Maastricht. *Journal of Common Market Studies* 38 (3): 519–538.
- Rowlands, Ian. 2005. The European Directive on Renewable Electricity: Conflicts and Compromises. *Energy Policy* 33 (8): 965–974.
- Sandholtz, Wayne, and John Zysman. 1989. 1992: Recasting the European Bargain. *World Politics*, 42 (1): 95–128.
- Schimmelfennig, Frank, and Berthold Rittberger. 2006. Theories of European Integration: Assumptions and Hypotheses. In *European Union: Power and Policy-Making*, edited by Jeremy Richardson, 73–96. London: Routledge.
- Schmitter, Philippe C. 1970. A Revised Theory of Regional Integration. *International Organization* 24 (4): 836–868.
- Skjærseth, Jon B. 1994. The Climate Policy of the EC: Too Hot to Handle? *Journal of Common Market Studies* 32 (1): 25–45.
- Skjærseth, Jon Birger, and Jørgen Wettestad. 2002. Understanding the Effectiveness of EU Environmental Policy: How Can Regime Analysis Contribute? *Environmental Politics* 11 (3): 99–120.
- . 2008. *EU Emissions Trading: Initiation, Decision-making and Implementation*. Aldershot: Ashgate.
- . 2010a. The EU Emissions Trading System Directive Revised (Directive 2009/29/EC). In *The New Climate Policies of the European Union: Internal Legislation and Climate Diplomacy*, edited by Sebastian Oberthür and Marc Pallemmaerts, 65–93. Brussels: ASP Editions.
- . 2010b. Fixing the EU Emissions Trading System? Understanding the Post-2012 Changes. *Global Environmental Politics* 10 (4): 101–123.
- Sweet, Alec Stone, and Wayne Sandholtz. 1997. European Integration and Supranational Governance. *Journal of European Public Policy* 4 (3): 297–317.
- Toke, David. 2008. The EU Renewables Directive—What is the Fuss about Trading? *Energy Policy* 36 (8): 3001–3008.
- Voss, Jan Peter. 2007. Innovation Processes in Governance: The Development of “Emissions Trading” as a New Policy Instrument. *Science and Public Policy* 34 (5): 329–343.
- Weale, Albert, Geoffrey Pridham, Michelle Cini, Dimitrios Konstadakopoulos, Martin Por-

ter and Brendan Flynn. 2000. *Environmental Governance in Europe: An Ever Closer Ecological Union?* Oxford: Oxford University Press.

Wettestad, Jørgen. 2001. The Ambiguous Prospects for EU Climate Policy: A Summary of Options. *Energy and Environment* 12 (2/3): 139–167.

———. 2009a. EU Energy-Intensive Industries and Emission Trading: Losers Becoming Winners? *Environmental Policy and Governance* (19) 5: 309–320.

———. 2009b. European Climate Policy: Towards Centralised Governance? *Review of Policy Research* 26 (3): 311–329.