Robert Schuman Centre

# Environmental Policy in the European Union Governing in Nested Institutions and the Case of Packaging Waste

THOMAS GEHRING

RSC No. 96/63

EUI WORKING PAPERS

EUROPEAN UNIVERSITY INSTITUTE

EUI Working Paper RSC No. 96/63

Gehring: *Environmental Policy in the European Union Governing in Nested Institutions and the Case of Packaging Waste*

The Robert Schuman Centre was set up by the High Council of the EUI in 1993 to carry out disciplinary and interdisciplinary research in the areas of European integration and public policy in Europe. While developing its own research projects, the Centre works in close relation with the four departments of the Institute and supports the specialized working groups organized by the researchers.

**EUROPEAN UNIVERSITY INSTITUTE, FLORENCE**

ROBERT SCHUMAN CENTRE

# Environmental Policy in the European Union Governing in Nested Institutions and the Case of Packaging Waste

THOMAS GEHRING

EUI Working Paper **RSC** No. 96/63

**BADIA FIESOLANA, SAN DOMENICO (FI)**

© Thomas Gehring
Printed in Italy in December 1996
European University Institute
Badia Fiesolana
I – 50016 San Domenico (FI)
Italy

## 1. Introduction

The environmental policy of the European Community is nested within a broader institution that is predominantly devoted to market integration. The parallel pursuit of differing policies within a comprehensive institutional framework does not preclude the emergence of a genuine environmental policy that reaches far beyond an appendix of single market policy, but it may be expected to affect outcomes. Moreover, European environmental policy does not replace the unilateral environmental policies of the member states, it merely supplements them. Hence, European environmental policy is subject to a horizontal tension between policies pursued at the European level and to a vertical tension between levels of policy-making. It is most heavily influenced, however, by the cross-level *and* cross-policy conflict between domestically enacted environmental standards that undermine market integration and European single market policy.

Even though the institutional framework appears to constitute a key factor for understanding European environmental policy, social science analyses are largely actor-oriented. They tend to focus on the struggle between interest groups and Commission directorates or between Council and Parliament (Huelshoff/Pfeiffer 1991, Arp 1993, Héritier et al. 1994, Golub 1996). Implicitly or explicitly, they respond to the debate on the most suitable theoretical framework for the analysis of the European Community (now Union) that has been revived in the past years. An inter-governmentally informed camp argues that EC policy-making should be explained mainly as interaction among states because the member states still control the most important EC decision processes (Moravcsik 1993, Garrett 1992). Their neofunctionally informed counterparts (Sbragia 1992, Sandholtz 1992, Marks 1992) draw attention to numerous other, i.e. supra-national, trans-national and sub-national, actors that appear to play a major role in intra-Community decision-making and ought not be excluded from analysis.

In contrast, social scientists have paid little attention to the institutional framework of the Community and its impact on policy-making so far (Caporaso/Keeler 1995: 49-51). Yet, it is the comprehensive institution that establishes supranational actors and provides sub-national actors with opportunities for intervention, that supports the decision-making system and relates otherwise unrelated decision processes to each other, (Gehring 1994a, 1996). This institutional framework is not least characterized by its system of legal rules as interpreted and tacitly developed by the European Court of Justice (Shapiro 1992, Burley/Mattli 1993). Not surprisingly, the so far most important institutionally informed study of European environmental policy has been written by legal scholars (Rehbinder/Stewart 1985).

This article explores the relevance of the institutional framework within which the participating actors act to pursue their interests for the making of European environmental regulation. One decisive factor is the co-existence of European environmental policy with European single market policy and with domestic environmental policy and the mutual influence of these policies on each other. Another is the institutionally established delimitation between the latter policies that assigns the member states an almost unlimited freedom for unilateral environmental action in the absence of specific policies even if such action undermines market integration. These key factors determine the logics of harmonization politics in the Community and create an institutional preference for product related single market policy over purely environmental process regulation not only on economic grounds but also for reasons of environmental protection.

The European policy on packaging waste which culminated 1994 in the adoption of a heavily disputed directive on packaging and packaging waste is examined in the second part. It illustrates the implications of the EC institutional framework for the making of European environmental policy. The European packaging waste policy and the 1994 directive are rooted both in European environmental policy and in the lasting endeavour to protect the single market from adverse effects of domestic environmental action. This twin basis allowed the whole project to be moved considerably between policies. It blurs the conceptionally clear-cut distinction between product and process regulation and facilitates highly complex outcomes of the negotiation process that implicitly transfer a considerably amount of decision-making from the cumbersome Council negotiation system to other coordinating mechanisms that are part of the Community system.

## 2. The Nesting of Environmental Policy within a Larger Institutional Framework

### *2.1. Environmental Policy in an Economic Integration Organization*

There is hardy any doubt that the three original communities form the core of the European Union. In the centre of this first pillar rests, in turn, the European Economic Community (now: European Community) that has been rather expansive during its almost forty years of existence. The main task of the Economic Community was, and is, the establishment and maintenance of a common market for goods, services, capital, and labour. For this purpose it was founded by the member states (Küsters 1982), invested with competences and equipped with its comparatively powerful apparatus. More recently, the difficult removal of non-tariff barriers to trade became the central goal of the single

market project and caused the first major revision of the EEC-Treaty (Moravcsik 1991, Sandholtz/Zysman 1989), while the Treaty on European Union seeks to support the single market by a monetary union (Cameron 1992, Sandholz 1993). Hence, European integration has always been in the first place integration of the domestic markets of member countries. Without its economic core the Community would be a mere institutional torso.

It is the nature of institutions to establish specific selection criteria. The rules, norms and practices of which institutions are composed always favour certain options and discourage others (March/Olson 1989), although they do not determine the behaviour of actors. Institutions that are deliberately established by a group of actors with a view to governing, i.e. achieving a common goal through collective action, comprise in addition a more or less well-defined 'policy direction' (Gehring 1995, 1994b: 438-443). After all, it is their function to help adjust an otherwise suboptimal situation *in a desired direction*. In order to be capable of fulfilling this function institutions of this type must favour options that promote the institutional goal. A governance institution that has been established to integrate the markets of the member states cannot fulfil its function unless its institutionalized selection criteria privilege options that promote the internal market. Therefore, harmonization of national laws posing obstacles to trade becomes a matter of particular relevance within the European Community (Taylor 1975, 1983; Puchala 1984).

However, the Community, and even more so the Union, is not limited to market integration any more. Over time, several separate 'flanking policies' have evolved, among them environmental policy (Hildebrand 1992, Jachtenfuchs et al. 1993, Sbragia 1993). Founded in the early 1970s (Bungarten 1976), European environmental policy has created numerous acts of environmental legislation (Rehbinder/Stewart 1985; Johnson/Corcelle 1989; Haigh 1992, Krämer 1992). From its beginning it was supported by its own organizational apparatus, composed of a separate unit within the Commission that became a Directorate General in 1981, a new committee of the European Parliament and a Council of environmental ministers. Substantively, European environmental policy relies on its own environmental programmes that are revised and updated about every five years. The first programme declared that "the aim of a Community environmental policy is to improve the setting and quality of life, and the surroundings and living conditions of the peoples of the Community" (*OJ* C (73) 112/5). It made abundantly clear that environmental policy was not at all understood as a mere appendix to the Community's internal market policy. Hence, from an institution devoted primarily to economic integration emerged a separately institutionalized, substantively independent and organizationally distinct part that disposed of its own selection criteria. Other things being equal, it would favour a high standard of environmental protection.

Nesting a policy in a larger institution devoted to a different goal inevitably causes a diversity of selection criteria. It might create a horizontal conflict between the two policies pursued by the same actors within the same institutional framework. However, the selection criteria of the two policies do not necessarily contradict each other. Environmental policy measures will support market integration and remove trade barriers, if they contribute to harmonizing national environmental legislation. Likewise, single market policy intended to harmonize domestic legislation may at the same time contribute to raising environmental standards, although it is also compatible with a policy of deregulation and low environmental standards (Joerges 1991). In fact, prior to the introduction of a specific environmental competence into the EEC-Treaty in 1987 European environmental policy was almost exclusively made in the name of market-related harmonization of national laws. As a rule, environmental legislative acts were based on a combination of articles 100 (harmonization of laws in the common market) and 235 (general enabling clause), however remotely related to the internal market (Rehbinder/Stewart 1985). Hence, while not all options of a European single market policy will be compatible with the selection criteria of European environmental policy, the two policies are not fundamentally contradictory and may be reconciled with each other.

The emergence and rapid development of a European environmental policy does not automatically deprive the member states from pursuing their own environmental policy. The behaviour of citizens and economic actors in the Union territory is now, and will continue to be, governed by European environmental regulation and domestic legislation simultaneously in a particular form of 'multi-level governance' (Scharpf 1993, Marks et. al. 1995; Jachtenfuchs/Kohler-Koch 1996). Successful environmental policy within the Union does not always come about in the form of harmonized European environmental policy. Quite the reverse, progressive domestic action frequently provides models and precedents that are taken up at the European level later on. Despite different approaches adopted by the member states and varying degrees of regulatory depth and seriousness, unilaterally adopted environmental action will generally intervene to raise the standard of protection. While the parallel existence of (at least) two levels of environmental governance may cause a vertical, subsidiarity-type tension that centres around the distribution of regulatory competences between levels, policy-making at both levels takes place according to very similar selection criteria.

Neither the horizontal tension between policies at the European level nor the vertical tension between levels of policy-making is rooted in a fundamental conflict. However, in a multi-policy institutional framework domestic environmental action is also related to European single market policy. Single market policy is basically directed at overcoming differences in national legislation that create obstacles to trade. Its selection criteria focus at avoiding

interference with transboundary trade and recommend depriving the member states of some leverage for unilateral environmental action. And vice versa, the selection criteria of domestic environmental policy recommend to establish (high) country-specific standards regardless of their adverse effect on market integration.

*Figure 1: Nesting of European Environmental Policy*

| Policy / Decision-making | Environmental policy | Single market policy |
|---|---|---|
| European Union | European environmental policy | European single market policy |
| Member States | Domestic environmental policy | |

Not all unilaterally enacted environmental standards are equally detrimental to transboundary trade. Process-related standards, e.g. emission standards for power stations or measures to protect a habitat for wild animals, may require investment in abatement technology or restrict the exploitation of farmland. They put the burden of adaptation on domestic producers and have the effect of reducing their relative competitiveness, but they do not interfere with transboundary trade in goods produced elsewhere. In contrast, unilaterally enacted product-related standards disfavour imported goods and put the burden of adaptation on foreign producers. Regularly, they prohibit the marketing of products that do not fulfil certain conditions. A domestic requirement that cars be fitted with catalytic converters automatically excludes cars without such fittings from the market of that member state.

Accordingly, two classes of environmental policy-making in the Union must be distinguished from each other (Weinstock 1984, Scharpf 1996). While the setting of process standards is institutionally largely independent from market integration policy, product-related environmental regulation creates a conflict between the desire of the member states to pursue a collective single market

policy at the European level and their desire to retain their ability to protect their environment by domestic policy-making. Every domestically enacted environmental measure with trade implications inevitably amounts to negative single market policy. And every act of European single market policy with environmental implications automatically limits the leverage of the member states for independent environmental action. Even though the Union is far from being at the brink of becoming a federal state, this conflict is typical for federations (Rehbinder/Stewart 1985, Stewart 1995). It stems from an institutional arrangement that interlocks two policies *and* two levels of policy-making simultaneously.

This triangular cross-level and cross-policy relationship distinguishes European environmental policy-making from policy-making in both the traditional nation-state and in the international system.

### *2.2. Domestic Environmental Action in the Single Market*

The existence of a fundamental conflict between domestic environmental policy and European single market policy raises the question of the institutionalized delimitation of the two policies (Krämer 1993). In how far does the existence of the single market in the absence of harmonizing secondary European legislation limit the leverage for domestic environment action ? And in how far does the ability of the member states to pursue their own environmental policy reduce the scope of European single market policy ?

The EC-Treaty delimitates the two spheres. It does not address process-related domestic environmental policy-making (except for market-distorting taxation and subsidies) because this policy does not normally affect the smooth operation of the single market. However, it addresses product regulation. In art. 30 it prohibits import quotas and "all measures having equivalent effect". The European Court of Justice (ECJ) interprets this clause extensively: "All trading rules enacted by Member States which are capable of hindering, directly or indirectly, actually or potentially, intra-Community trade are to be considered as measures having an effect equivalent to quantitative restrictions" (ECR 1974: 837 [Dassonville]). Since national protective regulation may fulfil important tasks, the Treaty provides, in art. 36, for a number of exceptions, inter alia for measures "justified on grounds of ... the protection of health and life of humans, animals and plants". Hence, the rule is that domestically enacted product standards are prohibited, but the exception to the rule is that they are justified under certain circumstances in spite of their detrimental effect for the single market (Geradin 1993: 153-155).

This institutionalized standard for the appraisal of product-related national measures is ambiguous. It is composed of two elements and needs balancing on a

case-by-case basis. The Community disposes of its own mechanism for this task, it assigns the decision of such cases to the European Court of Justice (Rasmussen 1986, Burley/Mattli 1993). The Court may be involved by a member state (which happens very rarely), by the Commission (Ehlermann 1981, Mendrinou 1996), or by a domestic court of one of the member states. This last procedure assigns an important role to non-state actors and undercuts all political organs at the national and at the European level (Weiler 1981, 1991). It makes the two Treaty provisions 'self enforcing'. In practice, the leverage of the member states to adopt their own product-related domestic environmental regulation is largely determined by adjudication of the ECJ.

Beginning in the 1970s the Court declared, in a series of famous decisions that gathered a considerable amount of public attention, numerous national legislative acts incompatible with European law. Of particular relevance were the decisions on the German requirement for a minimum content of alcohol in liquor (ECR 1979: 649-675 [Cassis de Dijon]), on the German prohibition to market beer not produced according to the 'purity requirement' (ECR 1987: 1227-1277) and on the Italian regulation on the ingredients of pasta (ECR: 1988: 4233-4283). Although Court decisions may have the consequence of establishing new European standards (Mancini 1991), in these cases they had a deregulative effect. National protective measures were rendered inapplicable without immediate replacement. The 'Cassis de Dijon' jurisdiction, exploited by the Commission (Alter/Meunier-Aitsahalia 1994), became the basis for the hypothesis of a dramatically limited leverage for autonomous national action caused by increasing Court-driven 'negative integration' (Scharpf 1996: 126-128).

However, in all these cases the responsible governments had not been able to submit convincing arguments for their existing regulations. The ban of beverages with a certain content of alcohol is difficult to justify when at the same time beverages with both a lower and a higher content are accepted, and so is the ban of *all* ingredients for beer and pasta other than those allowed by the German and Italian national laws, even if accepted in other countries. As soon as a member state convincingly proves that a risk exists for, say human health, and even if it establishes the existence of scientific uncertainty about such risk, it will enjoy a wide margin of choice of the level of protection (ECJ 1987: 1273 [German Beer]). In fact, the Cassis jurisdiction forces the member states to *actively justify* their trade-hampering domestic protective legislation in light of the exceptions allowed by the Treaty.

Drafted in the 1950s, art. 36 of the EC-Treaty recognizes measures to protect health and life of humans, animals and plants as justified, but it does not address environmental protection as such. Meanwhile both the Commission and the Court have accepted environmental protection as an important Community interest that also justifies domestically enacted product standards. In two landmark decisions the Court held that a Danish ban on beverage cans (ECR

1988: 4607-4633) and a Wallonian prohibition of waste imports (ECR 1992: 4431-4481) were justified for reasons of environmental protection despite their adverse effect for the internal market. So, despite all clamour about the detrimental effects of Court-driven negative integration and the Cassis de Dijon jurisdiction the member states enjoy an *almost unlimited freedom of choice* for the establishment of their own level of environmental protection and for the adoption of the necessary measures as long as specific Community measures are absent. However, these measures will be appraised against their own environmental aims, first by the Commission and in the last resort by the Court (numerous cases are discussed in Krämer 1995: 118-127). The situation may be summarized as follows: "A national measure to protect the environment is permissible to the extent that it is objectively capable of reaching the aim, that it is not discriminatory and that the desired objective cannot be attained by less restrictive measures" (Krämer 1995: 127).

Somewhat surprisingly, the institutionalized balance between the freedom for independent environmental policy-making enjoyed by the member states and the protection of the internal market from non-tariff trade barriers has been pushed toward the former almost as far possible. The existence of the internal market as established by the EC-Treaty and enforced by the Commission and the Court does not seriously hinder the member states to pursue their own environmental policy in the absence of specific Community provisions.

### *2.3. Harmonization to Limit the Leverage for Unilateral Action*

The institutionalized preference of domestic environmental policy over European single market policy may be most welcome from an environmental point of view. Yet, it does not ensure that the member states actually engage in activities to protect the environment, and it is awkward from a market integration perspective.

European environmental policy, i.e. setting harmonized standards, is the institutional response to these shortcomings. Unlike negative integration of the Cassis de Dijon jurisdiction type, harmonization replaces national measures with European standards and is, therefore, re-regulative rather than deregulative (Majone 1993). It withdraws policy-making at least partially from the domestic level and forces the member states to become active. Moreover, it is apt to reconcile single market policy and environmental policy and avoids the pursuit of one goal at the expense of the other. Yet, these advantages come at a price. Harmonization inevitably deprives the member states of some of their leverage for independent action. It is thus harmonization, not the existence of the internal market per se, that limits the freedom for national environmental action.

While full harmonization may be the favoured solution from an integration perspective, the establishment of uniform standards applicable in all countries alike requires a particularly high degree of consensus and slows down the pace of decision-making. In practice European environmental legislation resorted to a number of different forms of partial harmonization (Rehbinder/Stewart 1985: 7-9). Full harmonization is also not necessary because the regulatory tasks may be achieved without completely abolishing the leverage for domestic policy-making. However, product regulation and process regulation follow quite different logics and are driven by different forces.

### *2.3.1. Product-related Harmonization*

The setting of European environmental product standards is heavily affected by the leverage for domestic environmental policy enjoyed by the member states even at the expense of European single market policy. First and foremost harmonization will have to readjust this balance. It is in particular the higher than usual domestic standards that cause trade distortions, because they exclude from a domestic market even products that are produced in accordance with the laws of the producer country. The balance will be restored if products meeting harmonized standards may be freely traded and marketed throughout the Community. In contrast, lower than usual domestic standards do comparatively little harm to trade. Accordingly, the logic of single market policy demands that product-related harmonization establish *maximum standards* and predominantly limit the freedom of action of the high-standard countries. The logic of environmental protection is quite the reverse. Environmental deterioration is the consequence of too low, rather than too high standards. Environmental product regulation will primarily address the low-standard countries and limit their freedom of action. It will set comparatively high *minimum standards* while avoiding maximum standards that unnecessarily restrict the active environmental policy of the 'progressive' states. Accordingly, the setting of product-related European environmental standards is governed by two diametrically opposed logics of harmonization.

The institution does not provide a solution for this collision. The problem is thus referred to the member states gathered in the Council. On the one hand, all member states will be interested in harmonized product standards that enable them to enjoy the advantages of the single market (Rehbinder/Stewart 1985: 9-11). After all, the single market does not only constitute the core of the Community, it is also the main reason for joining the EC. On the other hand, the member states will have different preferences on the appropriate level of environmental protection envisaged by a harmonized standard. This constellation of interests reflects a game-theoretic 'Battle of the Sexes' situation (Scharpf 1996:

118-119). The high standard countries will usually reject to reduce their existing standards, but they cannot enjoy the benefits of market integration without sacrificing their option for an independent future environmental policy in the regulated area. In exchange for this concession they may force the low standard countries to accept minimum standards at a level significantly beyond the 'lowest common denominator'. The possibility of a trade-off between single market and environmental interests tends to raise the level of protection of environmental product standards. However, the existence of unilaterally established high-level standards is the prerequisite for driving European product standards up.

A product standard harmonized in this way constitutes an almost optimal solution from a single market point of view, because it restores the balance in favour of the protection of the internal market. The outcome is more ambiguous from an environmental perspective. On the one hand it raises the level of protection in the low-standard countries. On the other hand it limits the future activity of the member states to develop their own environmental policy. Harmonized product standards inevitably raise the problem of 'obsolescence' (Rehbinder/Stewart 1985: 279) because they undermine the force driving European environmental standards up. They may create a situation in which the member states sacrifice their competence to regulate a subject unilaterally while the Community system is (still) unable to respond effectively to demands of environmental protection due to high consensus requirements, i.e. they may lead right into the 'joint decision trap' (Scharpf 1985). The problem is illustrated by the long struggle about the introduction of catalytic converters for cars (Arp 1993, Holzinger 1994) that took place in a subject area already harmonized by an early directive at a low level of environmental protection.

The single market-article 100 a introduced by the Single European Act in 1987 reflects the logic of harmonization of product standards. Although the article does not legally require the setting of maximum standards, it suggests that maximum or full harmonization will be the normal case. Apart from committing the Commission to a high level of environmental protection when proposing new European legislation, it contains an opening clause according to which member states may under certain conditions maintain existing domestic environmental regulation that exceeds the harmonized European standard. This clause is very rarely used (Krämer 1995: 106-107). It jeopardizes the aim of harmonization and the Court has meanwhile further tightened the conditions for its application (ECR 1994: I-1829-1852 [PCP]). More importantly, the clause does not cover new domestic measures introduced after the entry into force of a harmonization directive and does not therefore encourage continued progress.

To sum up, the institutionalized decision to favour, in the absence of specific legislation, unilateral environmental policy at the expense of single market policy enables the member states to harmonize product standards at a comparatively high level of environmental protection. Yet, harmonization of a subject area

changes the situation fundamentally because it undermines the forces driving standards up. However motivated its adoption is, the logic of harmonization turns product standards always predominantly into measures of single market policy.

### *2.3.2. Process-related Harmonization*

In contrast to product regulation, process standards are not affected by the triangle relationship between policies and levels. They are largely dominated by the tension between European and domestic environmental policy because the harmonization of process standards is not a major point of concern for single market policy. Unilaterally enacted high standards will usually impose a burden on domestic industries and implicitly reinforce the competitiveness of foreign producers. Market integration does not depend on political action but may rely on existing market forces. Accordingly, the choice of standards may be left to the member states. However, there are two exceptions to this general rule (Stewart 1995). First, a country may gain competitive advantages by externalizing environmental costs, for example by polluting international rivers and seas or by causing transboundary air pollution. Second, the desire of member states to create or uphold competitive advantages for their industries may lead to a 'race to the bottom' or a 'stalemate at the bottom'. Member states successively lowering their standards to reinforce their competitive advantages may find themselves trapped in a vicious circle. Probably more important in the field of environmental protection, they may refrain from individually introducing a new and altogether desirable measure for fear of a competitive disadvantage. In these cases the market mechanism fails and the smooth operation of the single market might suggest the adoption of harmonized regulation to avoid undesirable distortions. If it does, the logic of single market policy militates for minimum standards, because distortions are caused by low-standard countries. In contrast to product regulation, additional maximum standards would not at all contribute to solving the problem at stake. The logic of European environmental policy also focuses at raising the level of protection in low-standard countries and favours European minimum standards. However, all environmentally problematic subject areas will generally be suited for European environmental regulation, whether or not they also pose a problem of market distortion.

This harmony of the inherent logics of harmonization does not facilitate the establishment of process standards. High-standard countries will generally favour harmonization at a comparatively high level of protection that promises to improve the state of the environment and contributes simultaneously to avoiding competitive advantages of the low-standard countries. Since they will exceed harmonized minimum standards anyway, European legislation hardly limits their freedom of action. In contrast, low-standard member states, i.e. the intended

addressees of harmonization, may be expected to prefer no or very low European standards that do not threaten their competitive advantages, nor overly limit their freedom of unilateral action. Except for the 'race to the bottom' case, in which all countries have 'mixed motives' and a collective incentive to compromise, there is no real incentive for the low-standard countries to reach agreement. This does not mean that process regulation is altogether impossible to achieve in negotiation systems (Héritier et. al. 1994, Eichener 1996, Zürn 1996). Yet, usually it will be more difficult to agree upon than product regulation (Rehbinder/Stewart: 9-11; Scharpf 1996: 119-121) and it will tend to remain at a comparatively meaningless level. Hence, attempts to improve the state of the environment by European process standards will frequently end in 'structural subsidiarity', i.e. the de facto re-transfer of the regulatory competence to the member state level caused by the inability of the Council to reach substantive decisions. In this area European environmental policy resembles international environmental policy-making more closely than in the product-area.

From a normative point of view this finding may be disappointing because the Community may prove to be less well or not at all capable of regulating subject areas of this type (Rehbinder/Stewart 1985). However, the reduced ability of the Community system to set process standards does not cause a regulatory gap as long as the member states retain their own regulatory capacity. In the 'multilevel governance system' of the present Union (as opposed to a hypothetical European central state) regulation does not necessarily have to be decided upon at the European level. The member states may well exercise their regulatory autonomy as far as possible while empowering the Community (only) where necessary (Scharpf 1993). Hence, the current challenge of harmonized environmental process regulation on subsidiarity grounds (Zito 1996) is not problematic per se. More disturbing is the occurrence of 'structural subsidiarity' in areas in which the member states have lost their individual regulatory capacity and depend on European regulation (Scharpf 1996), be it because of increased competition in the integrated market or following from the particularities of the underlying environmental problem.

The environmental competence of art. 130 r-t, introduced into the EC-Treaty by the Single European in 1987, clearly reflects the logic of process harmonization. It is exclusively directed at setting minimum standards and ensures, in art. 130 t, that member states are not hindered to enact standards higher than those adopted under this competence. Since it does not allow the setting of maximum standards (Krämer 1995: 102-104), is not at all suited for product-regulation. The frequent assumption that activities under the environmental competences of the EC-Treaty reflect EC environmental policy (recently Hillenbrand 1994) is, therefore, altogether misleading. Moreover, the EC-Treaty stipulates specifically, in art. 130 r, that the harmonization of process standards at the European level is subject to the subsidiarity principle. Hence, it

recognizes that process regulation may be dealt with at both the European and the member state level and that there must be at least some justification for setting European standards.

### *2.3.3. Institutionalized Preference for the Regulation of Products over Processes*

The institutional arrangement seriously influences both the demand and the opportunities for active European environmental policy-making. A purely environmental perspective tends to miss this institutional impact because it disregards the peculiar tension between domestic environmental policy and European single market policy.

The selection criteria of European environmental policy, that recommend high standards at the European level, will favour product regulation over process regulation because the former promises substantive improvement in the low-standard countries with a continuing high level of protection in the progressive member states. In contrast, substantive process regulation is generally difficult to achieve and always threatened of being trapped in 'structural subsidiarity'. Single market policy devoted to the removal of trade barriers focuses almost exclusively on harmonized product standards while the level of environmental protection as well as differences in domestic process regulation are of little relevance. Accordingly, the Commission pursuing European single market policy and European environmental policy simultaneously has every reason to prefer the setting of product standards over process standards when designing the outline of legislative projects. This choice is generated by the particular institutional arrangement of the Community, while it may be exploited by interested actors like industrial lobbying groups (Porter/Butt Philip 1993).

The situation looks somewhat different from the perspective of a member state because product regulation has the automatic effect of depriving member states of their leverage for domestic environmental action in the regulated area. This is especially relevant for environmentally progressive countries. In the (occasionally not so) long run it is also ambiguous from the point of view of European environmental policy-making because unilateral action by advanced countries may be indispensable for the progressive up-grading of the level of environmental protection within the Union. Whether a product standard is of advantage not only for European environmental policy but also for environmental policy in the multi-level Union will largely depend on the balance stricken in the individual case.

## 3. European Environmental Policy in Practice: The Directive on Packaging and Packaging Waste

The directive on packaging and packaging waste prepared and negotiated between 1991 and 1994 was one of the most heavily lobbied acts of European environmental legislation (Porter 1995b) and is frequently seen as a failure (Golub 1996). It demonstrates the impact of the nesting of European environmental policy within a larger institution that is also concerned with market integration.

### *3.1. The Context: European Packaging Waste Policy and the Struggle over Danish Bottles*

The directive is rooted in two parallel but interrelated Community developments. It reflects the lasting intention of the Commission to establish a European policy on packaging waste and its constant endeavour to protect the single market from adverse effects caused by unilateral environmental action of member states.

Already the first environmental programme of 1973 identified packaging waste as a possible subject for European environmental policy. Under the framework directive 'on waste' (*OJ* (75) L 194), that assigns to the member states the task of reducing the quantity of wastes and of encouraging recycling, the Commission started in 1975 to prepare the proposal for a directive on containers of liquids for human consumption. This environmentally ambitious project was initially directed at promoting the use of refill packaging. It stirred the vigourous protest of the packaging and beverage producing industries and of trade groups (European Parliament Doc. 1-1187/82).

After nine drafts and six years of preparation the Commission eventually presented in 1981 an entirely environmental project that did not at all refer to the possible single market implications of packaging waste policy (COM (81) 1987 final). The proposal constituted one of the rare cases of environmental legislation that would be based solely on the general enabling clause of art. 235 rather than a combination of articles 100 and 235. It was intended to encourage the adoption of measures to reduce the environmental impact of used containers, decrease energy consumption and save raw materials. The member states would be obliged to work out annual programmes for the reduction of packaging in household waste and for the increase of the share of refillable and/or recyclable packaging. The proposal avoided any discrimination of materials and reuse strategies. It did not prefer bottles over cans and plastic containers, nor favour refill systems relative to the recycling of one way packaging. Hence, in light of the fierce resistance of interest groups and some member countries (particularly Britain and Ireland) the

Commission had given up the idea of a coherent and uniform European packaging waste policy. The directive would merely establish a European framework for the elaboration of national packaging waste policies. When it was eventually adopted in 1985 after some four years of struggle (*OJ* L (85) 176), it could at best be conceived as the first step on the long way toward a Community policy on packaging waste (Johnson/Corcelle 1989: 179-180; Haigh 1992: 5.8).

However, in the framework of an institution among whose priorities the establishment and maintenance of a single market figured highest, it affected the balance between the duty to avoid non-tariff barriers to trade and the freedom enjoyed by the member states to pursue their own packaging policy. While it did not positively oblige the member states to introduce or develop refill systems (they could as well resort to recycling), it did not only allow, but expressly encourage them to do so, even though refill systems privilege local producers and almost inevitably create new obstacles to free trade. Hence, as insubstantive as the directive was from an environmental point of view, it affected the appraisal of national measures on beverage containers. In this way it influenced a lasting conflict on the compatibility of a Danish return system with the single market requirements at a time when the landmark Cassis de Dijon judgement (ECR 1979: 649-675) seemed to suggest that a wide range of domestic regulation could be successfully challenged before the Court on grounds of constituting illegitimate obstacles to free trade.

In 1977 Denmark had prohibited the marketing of soft drinks in one way bottles and cans. The Commission assumed that this measure implicitly discriminated foreign producers. Simultaneously with the preparation of its proposal on containers of liquids for human consumption, it attempted to motivate the Danish government in an extensive written and oral exchange to adapt its regulation to the requirements of the single market. While it was beyond doubt that the regulation constituted a - generally prohibited - obstacle to trade, the Commission had, by mid-1979, not decided whether it considered it as a justified unilateral action to protect the environment or as a violation of the duty to avoid trade restrictions (*OJ* C (79) 214/5). Hence, by the year of the Cassis de Dijon decision the Commission had accepted *that* protection of the environment could justify domestic product standards. It merely doubted whether other approaches existed to achieve the environmental aim with less detrimental effects for the single market (e.g. systems based on deposit, recycling or taxation of packaging).

By 1980 Denmark informed the Commission that it planned to extend the regulation to the beer market. Henceforth the marketing of beer and soft drinks was allowed only in licensed refillable containers in order to avoid that producers competed in the form of introducing ever new types of bottles. The Commission received protests of beverage and packaging producers and trade groups located outside Denmark that were supported in particular by the UK. Again it entered into negotiations and in 1984 convinced the Danish government to introduce a

modification of its regulation according to which foreign producers and importers were allowed to market beverages up to a fixed maximum quantity (3000 hl per year) in non-licensed containers under the condition that they established their own deposit and collection system. Metal cans remained prohibited (ECR 1988: 4608-4609).

Nevertheless, early in 1985 the Commission instituted an infringement procedure. The case passed the several tiers of the procedure (Krämer 1995: 135-138) and reached the Court in 1986. The Commission was now forced to argue in favour of the protection of the internal market without being inconsistent with the Community's packaging waste policy. The brand-new directive on containers of liquids for human consumption did not only require the member states to elaborate programmes for the reduction of packaging waste, it also recommended as one strategy the promotion of refill systems. So, the Commission broadly complained that the Danish regulation heavily disadvantaged foreign producers and practically closed the Danish market. However, it considered the measures applicable to foreign producers "to be incompatible with the principle of free movement of goods *solely because of the limitations as to quantity and duration which they impose*" (ECR 1988: 4611, emphasis added). Accordingly, the Commission had not only accepted the Danish mandatory deposit and refill-system as such but also the strict ban on metal cans and the requirement to establish independent deposit and recollection systems as a condition for the exceptional marketing of beverages in one way containers. Implicitly, it considered all these parts of the Danish regulation compatible with the single market and was willy-nilly prepared to accept a wide margin of choice for the member states to conduct their own environmental policy.

The Court did not follow the more restrictive recommendation of the Advocate General and ignored the far-reaching claims of the United Kingdom which had intervened into the case. Instead, the Commission succeeded entirely (ECR 1988: 4607-4633). Disregarding the precise matter of dispute before the Court, the decision in the Danish Bottle Case is frequently seen as a rare exception from the general Cassis de Dijon jurisdiction (Groomley 1990: 846; Koppen 1993: 140-141). It effectively shelters national environmental measures in areas that are not subject to European harmonization legislation against the threat of Court-driven deregulation. Whereas the Commission had attempted, in the framework of its single market policy, to reduce the adverse impact of domestically enacted environmental policy on the free exchange of goods, in formulating its claim it had actively prepared the road for a landmark Court decision that struck the balance between protection of the single market and freedom for domestic environmental action largely in favour of the latter.

The impact of the Danish Bottle Case would force the Community to increasingly promote harmonization in order to contain the now almost unlimited freedom for domestic environmental action and to gradually re-adjust the balance

in favour of the single market. The restrictive effect of the judgement on the control of unilaterally adopted domestic action became apparent when in 1990 another member state, Germany, notified its packaging waste ordinance. The regulation reached far beyond any existing European approach to packaging waste and applied to all primary, secondary and transport packaging. It intended to stabilize existing refill-systems and introduced a mandatory deposit on one-way packaging for beverages, detergents and paints as well as the general obligation of retailers to recollect packaging. Alternatively, producers and retailers could establish nationwide a separate collection system for packaging waste (the later 'green dot system'). Once again the Commission received complaints of interested industries based outside Germany. Although it scrutinized the system as to its conformity with the single market and entered into deliberations with the German government (Com (92) 278 final), it never instituted a formal infringement procedure.

### *3.2. Preparation of the Directive*

The German regulation did not only emphasize that the protection of the single market from adverse effects of unilateral environmental legislation would have to rely primarily on positive harmonization. It also made clear that problems of this type would proliferate in the future. Hence, the future packaging waste policy could be linked to single market policy. However, the Commission had, over many years, attempted to develop an environmentally progressive European packaging waste policy. The only result so far had been the directive on containers of liquids for human consumption that encouraged the member states to use their freedom of action and develop their own strategies. The Commission could also attempt to launch a fresh initiative for a more substantive European packaging waste policy.

#### *3.2.1. The First Stage: An Environmental Project*

The 'first movers' (Héritier 1996), Germany and the Netherlands had an immediate impact on the European packaging waste policy. So far the Commission had followed a selective approach toward packaging waste and was preparing proposals on plastic waste and metal packaging (SEC (89) 934 final). However, in 1990 the Directorate General of the Environment (DG XI) started preparations for a directive addressing all packaging wastes. The first 'Outline Proposal' (April 1991) observed that the implementation of the 1985 directive had been disappointing and, moreover, that it had caused market distortions due to very different approaches adopted by the member states.

The Outline Proposal envisaged three basic measures. First, the member countries should ensure that within five years the amount of packaging waste per head of population did not exceed the EC average. While this duty was directed at stabilizing the amount of packaging waste within the Community, it required a serious reduction by the wealthy northern member states with a high consumption of packaging. Second, the Outline would oblige the member states to ensure that within five years at least 60 % of packaging waste was recycled and another 30 % incinerated with energy recovery, while not more than 10 % should be disposed untreated (the 60/30/10 formula). According to Commission figures this amounted to a threefold increase in the share of recycled packaging. Third, member states should ensure within five years that marketed packaging met certain standards as to its content of heavy metals and other dangerous substances.

All these duties, including the proposed product standards, came about in the form of minimum standards designed to enhance the level of environmental protection. The Outline did not identify exceptionally low process standards in any member country that might have created market distortions or a 'race to the bottom' situation, nor did it tackle the problem of market distortions created by exceptionally far-reaching standards as demonstrated by the incriminated Danish and German regulations. Overcoming this latter problem required measures ensuring that imported goods could be marketed Community-wide if they fulfilled harmonized criteria and would have the inevitable effect of creating de facto maximum standards. In short, the original idea of the Commission proposal did not respond to the single market problems created by domestic packaging waste policies. It envisaged an exclusively environmental project and focused entirely on process regulation.

Even though the proposal stirred the protest of numerous interest groups, DG XI kept its ambitious environmental approach. The first comprehensive text for the operative part of the directive (Draft No. 1) retained the main duties of the Outline and added auxiliary obligations, including the duty to observe the proportionality of restrictions caused by implementing measures in light of the environmental aims to be achieved. In June 1991 the chefs des cabinets discussed the draft proposal in this form. This steering body immediately below the colleague of Commissioners sent the ambitious environmental project back with the request for thorough revision and closer collaboration with other DG's, especially the Directorate responsible for single market affairs (DG III).

Within the following year three more drafts were elaborated and repeatedly discussed with governmental experts and interest groups. During this second stage of the preparation the environmental approach underwent some important changes. The Commission dropped the heavily criticised cap on the amount of packaging waste per capita for conceptional and political reasons (COM (92) 287 final). This obligation would have had the undesired effect of favouring

comparatively light composite and plastic packaging over heavier materials (glass) even though they were more difficult to recycle. Countries exceeding the European per capita average of packaging waste might also have been forced to promote refill systems - a consequence that stirred vigourous political resistance and seemed, moreover, difficult to justify by 'life cycle analyses' of different types of packaging (Porter 1995a).

Having skipped the cap provision, mandatory recycling became more important. While the originally envisaged, ambitious figures (the 60/30/10 formula) were retained throughout the preparation process, the obligation was somewhat relaxed by an extension of the transitory period from five to ten years and the introduction of a set of intermediate goals. On the other hand, it was tightened by the application of the recycling goals not only to packaging waste at large but also to materials separately, thus avoiding that a country met its duties by merely recycling the comparatively easily recyclable heavy fraction (glass and metal) while incinerating plastics and composite packaging.

Altogether these modifications slightly weakened the proposal, but they largely responded to difficulties inherent in the regulated subject area and did not seem unreasonable. To be sure, the proposal published by the Commission in autumn 1992 (*OJ* C (92) 263) still comprised very ambitious environmental goals. However, it was not altogether clear why packaging waste policy of this type should not remain in the discretion of the member states. Thus, the proposal ran into the general difficulty of setting by negotiations process standards at a high level of protection.

### *3.2.2. An Additional Single Market Project*

However, the truly interesting development within the revision period was not related to the environmental approach itself. It concerned the Commission's response to the fact that domestic packaging waste regulations constantly undermined market integration even without legally violating single market obligations. In June 1991 the chefs des cabinets had requested that this dimension be duly recognized.

Starting late in 1991 the drafts began addressing the single market aspect of the packaging waste problem because "the Danish Case made it quite clear that, in order to prevent obstacles to free movement [of goods] in this area common rules are needed governing the measures to be taken by the Member States to achieve the aim of the Directive" (Comment to Draft No. 3). The emergence of a new single market component necessarily affected the setting of priorities. Temporarily the single market goal came even to precede the environmental goal in the first article (e.g. Draft No. 3). However, effectively protecting the single market in the packaging waste sector was not all that simple. The first attempt

occurred in the form of numerous 'criteria' for national measures (Draft No. 3) that basically repeated the conditions established by the Court in the Danish Bottles Case. Economic instruments (i.e. deposit and taxation policies) were hesitantly accepted ('may be adopted') but made conditional to a 'rather severe' notification procedure (Comment to the Final Draft). This approach amounted to a collection of bureaucratic constraints intended to discourage innovative domestic environmental policy-making by the member states without being able to really change the legal situation. It was not pursued any further.

Instead, the single market dimension as officially proposed came to rely solely on an extended system of quality standards for packaging and a related guaranty of the marketability throughout the internal market of packaging that met these standards. The envisaged limits for the content of certain dangerous substances in packaging were supplemented by requirements for refillable and recyclable packaging. The member states were obliged to ensure that these standards were met (i.e. minimum standards), but they would also have the duty to accept packaging that fulfilled the European standards (i.e. de facto maximum standards for imported packaging). Furthermore, they were to assume that the European requirements were fulfilled if packaging was produced according to national regulations published in the Official Journal of the Community. Thus, the official proposal of the Commission for a directive on packaging waste referred to a mechanism for the standardization and licensing of products developed in the framework of the single market programme (cf. Joerges et al. 1988: 341-364). This approach was quite far-reaching. It had the potential of affecting the core problem of the Danish and German schemes that distorted the single market and de facto discriminated foreign producers by actively promoting one type of packaging (e.g. refillable containers) over another and by discouraging or even prohibiting certain types of packaging (plastic bottles or beverage cans).

Hence, during the preparation phase the project had considerably moved between policies. The official proposal of the Commission, now appropriately based on the internal market competence (art. 100 a), was made up of two different components (Porter 1995b). It combined an environmentally motivated part directed at process harmonization with a product regulation motivated by single market concerns. The former provided the driving force for the entire project, but it was prone with the difficulties inherent in harmonizing process regulation. The latter was too general to be dealt with separately, but once put on the agenda it raised the prospect for agreement on the whole package.

### *3.3. The Political Decision Process*

Based on art. 100 a, the directive was dealt with first according to the collaboration procedure and after the entry into force of the Maastricht Treaty

according to the co-decision procedure. Despite its extended rights under these procedures, the European Parliament did not exert much influence on the substance agreed upon (Golub 1996), while the Council considerably modified the proposal during the negotiations on its common position.

The newly introduced single market component remained formally undisputed. The small group of environmentally concerned countries (Belgium, Denmark, Germany, the Netherlands) did not attempt to skip it from the directive, and even accepted a significant downgrading of the requirements for recyclable and refillable packaging. The other countries did not struggle to increase its impact. However, the environmentally concerned countries succeeded at an early stage of the negotiations in introducing two new articles on waste prevention and on the promotion of refill systems that did not constitute positive obligations but secured the leverage for future domestic environmental policy. Thus the member states severely limited the impact of the single market component and implicitly agreed that the directive should not address the adverse effects of such unilateral policy on the single market.

In contrast, the ambitious recycling goals proposed by the Commission were heavily disputed. They were vehemently supported by the group of environmentalist countries that had already established their own recycling systems and would be least affected by high European requirements. Not surprisingly, they were equally vigourously rejected by countries with a low standard in the sector (Greece, Ireland, Portugal, Spain, United Kingdom). First the Council agreed to determine goals only for an intermediate step to be reached within five years. For this step the Commission had proposed a minimum of 60 % recovery and 40 % recycling for each material of the total packaging waste. The Council lowered these figures considerably and reached agreement on the following decision: the duty to recover 50 % of the packaging waste, to recycle 25 % of the total amount and only 15 % of each material. This standard was further weakened by a temporary exemption for some low-standard countries (Greece, Ireland, Portugal). As generally expected for process regulation, the standards agreed upon were hardly ambitious. That they were accepted at all may be attributed to their linkage with other parts of the directive.

If all member states were allowed to go beyond the harmonized standards, the result would have constituted a case of 'structural subsidiarity' re-transferring most of the regulatory competence to the member states. However, several member states claimed that the German collection system undermined their own systems because it flooded their secondary raw material markets with large quantities of glass and paper sold at low and occasionally even 'negative prices'. France threatened to close its borders for these imports and other member states followed (*Agence Europe* 5/6 July 1993). Hence, the very success of the German system, that provided the model for the European directive, caused distortions of the internal market. To solve this 'German problem', the Council supplemented

the envisaged minimum goals with a cap *limiting* recovery at a maximum of 65 % and recycling at 45 % of the total amount of packaging waste. Denmark, Germany and the Netherlands struggled hard for an exemption that allowed to exceed the cap limits if a member state had a sufficiently high capacity to process collected raw materials. With these changes the directive on packaging and packaging waste was eventually adopted in December 1994 (*OJ* L (94) 365).

In the course of the Council negotiations both groups of member states succeeded in watering those components of the package by which they were particularly affected. The environmentally concerned minority reduced the impact of the single market component and, in the final stage, also of the cap provision. The majority lowered the recovery and recycling obligations to a level that did not require serious adaptation of existing programmes in most member states. The impact of this outcome on the packaging waste policy in the member countries is still difficult to assess. At best, it may reinforce the vested interests of certain industries involved in the collection and recycling of packaging waste and in this way launch a positive feedback process that could lead to enhanced figures later on. However, the directive will almost certainly affect the leverage for domestic packaging waste policies. It establishes a new, but highly complex and therefore unclear institutional basis for future national action. Environmentally progressive countries attempting to use the exemption clause to break the cap provision on recovery and recycling quota, or trying to protect existing legislation under the opening clause of art. 100 a (4) will have to meet still unclear conditions. Likewise, they may find the Commission, and eventually the Court, outruling new measures in the packaging waste sector, such as a ban of PVC-packaging, that most probably had been in conformity with European law so far. Moreover, the new directive enables private parties to involve the European Court of Justice via national courts. A producer or importer believing to be adversely affected by the domestic packaging waste policy of a member state may now choose an appropriate case and test whether the directive has modified the legal situation compared to the status following from the Danish Bottle Case jurisdiction.

Hence, the directive does not only constitute the - moderate - second step toward a European packaging waste policy. Within the framework of the European Community it has an immediate impact on the single market policy and will almost certainly exert influence on the leverage for future domestic action in the sector, even though the extent of this influence is not yet altogether clear.

## 4. Conclusion

European environmental policy emerges from an institution that is primarily devoted to economic integration and the establishment and maintenance of the internal market. It co-exists with other policies pursued in the same institutional

framework, above all single market policy. It also co-exists with environmental policy made by the member states unilaterally. A policy decision adopted in one of these areas may generate undesired, and occasionally unexpected, consequences in the other areas. The development of packaging waste policy in Europe illustrates this effect. Both domestic environmental action and European environmental policy interfered with single market policy and modified the context from which the 1994 directive emerged.

While product standards may be assumed to be generally more closely interlocked with other policies, the development of the directive on packaging and packaging waste demonstrates that the distinction between product and process regulation is not at all clear-cut. Since the substantive problem to be regulated was rooted in different policies, it could be deliberately moved along the continuum toward product regulation during the preparation of the legislative act. In this way it was possible to put together a comprehensive package that contributed to raising the probability of adoption also for the process component. The development of the packaging waste directive is thus an example for the influence generated by embedding a specific decision process of European environmental policy within a more comprehensive institution.

To get majority support for the directive, and in fact even a hidden consensus, the Council did not only seriously water down the individual parts of the package. It also resorted to increasing the complexity of the directive in order to balance the impact of the various components and disguise disagreement. Yet, complexity raises the probability of unintended consequences of a regulation for other areas of policy-making. Sooner or later interested actors will attempt to exploit existing grey zones. Conflicts will emerge and involve non-state actors, i.e. the Commission and eventually the Court as well as interested private parties that may instigate Court proceedings. Over time the initially broad margins for interpretation will be closed, but these secondary decisions will take place outside the Council negotiation system in the form of bilateral negotiations, for example between the Commission and a member state, or within the hierarchically organized judicial apparatus. In effect, the directive transfers a considerable part of the total amount of collective decision-making necessary to govern the sector from multilateral negotiations to other coordination mechanisms available within the institution, even though it does not specifically delegate these decisions to supranational actors. In this regard packaging waste policy also provides a lesson in governance within the multi-level system of the European Union.

## Bibliography


Alter, Karen J. and Meunier-Aitsahalia, Sophie (1994): "Judicial Politics in the European Community. European Integration and the Pathbreaking Cassis de Dijon Decision"; *Comparative Political Studies* 26: 535-561.

Arp, Henning (1993): "Technical Regulation and Politics. The Interplay between Economic Interests and Environmental Policy Goals in the EC Car Emission Legislation", in J. Duncan Lieffering, Philip Lowe and Arthur P.J. Mol (eds): *European Integration and Environmental Policy*, London: Belhaven, pp. 150-171.

Bungarten, Harald B. (1976): *Die Umweltpolitik der Europäischen Gemeinschaft*, Bonn: Europa Union.

Burley, Anne-Marie and Mattli, Walter (1993): "Europe Before the Court: A Political Theory of Legal Integration", in: *International Organization* 47: 41-76.

Cameron, David R. (1992): "The 1992 Initiatives: Causes and Consequences", in Alberta M. Sbragia (ed.): *Euro-Politics. Institutions and Policymaking in the 'New' European Community*, Washington D.C.: Brookings, pp. 23-74.

Caporaso, James A. and Keeler, John T.S. (1995): "The European Community and Regional Integration Theory", in Carolyn Rhodes and Sonia Mazey (eds*): The State of the European Union*, Vol. 3: *Building a European Polity ?*, Boulder: Lynne Rienner, pp. 29-62.

Eichener, Volker (1996): "Die Rückwirkungen der europäischen Integration auf nationale Politikmuster", in Markus Jachtenfuchs and Beate Kohler-Koch (eds*): Europäische Integration*, Opladen: Leske & Budrich, pp. 249-280.

Ehlermann, Claus-Dieter (1981): "Die Verfolgung von Vertragsverletzungen der Mitgliedstaaten durch die Kommission", in: Wilhelm G. Grewe, Hans Rupp and Hans Schneider (eds.): *Europäische Gerichtsbarkeit and nationale Verfassungsgerichtsbarkeit, Festschrift zum 70.* Geburtstag von Hans Kutscher, Baden-Baden: Nomos, pp. 135-153.

Garrett, Geoffrey (1992): "International Cooperation and Institutional Choice: The European Community's Internal Market", *International Organization* 46: 533-560.

Gehring, Thomas (1994a): "Der Beitrag von Institutionen zur Förderung der internationalen Zusammenarbeit. Lehren aus der institutionellen Struktur der Europäischen Gemeinschaft", *Zeitschrift für Internationale Beziehungen* 1: 211-242.

Gehring, Thomas (1994b): *Dynamic International Regimes. Institutions for International Environmental Governance*, Frankfurt/M: Lang.

Gehring, Thomas (1995): "Regieren im internationalen System. Verhandungen, Normen and internationale Regime", *Politische Vierteljahresschrift* 36: 197-219.

Gehring, Thomas (1996): "Integrating Integration Theory: Neofunctionalism and International Regimes"; *Gobal Society* 10: in press.

Geradin, Damien (1993): "Trade and Environmental Protection: Community Harmonization and National Environmental Standards"; *Yearbook of European Law* 13: 151-199.

Golub, Jonathan (1996): "State Power and Institutional Influence in European Integration: Lessons from the Packaging Waste Directive", *Journal of Common Market Studies* 34: in press.

Groomley, Laurence (1990): "Recent Case Law on the Free Movement of Goods: Some Hot Potatoes", *Common Market Law Review* 27: 825-857.

Haigh, Nigel (1992): *EEC Environmental Policy and Britain*, Harlow: Longman.

Héritier, Adrienne (1996): "The Accommodation of Diversity in European Policy Making and its Outcomes: Regulatory Policy as a Patchwork"; *Journal of European Public Policy* 3: in press.

Héritier, Adrienne, Mingers, Susanne, Knill, Christoph and Becka, Martina (1994): *Die Veränderung von Staatlichkeit in Europa. Ein regulativer Wettbewerb: Deutschland, Großbritannien, Frankreich*, Opladen: Leske & Budrich.

Hildebrand, Philipp M. (1992): "The European Community's Environmental Policy, 1957 to '1992': From Incidental Measures to an International Regime ?"; *Environmental Politics* 1: 13-44.

Hillenbrand, Olaf (1994): *Europa Öko-logisch ? Wirkungs- and Störfaktoren der europäischen Umweltpolitik*, Bonn: Europa Union.

Holzinger, Katharina (1994): *Politik des kleinsten gemeinsamen Nenners ? Umweltpolitische Entscheidungsprozesse in der EG am Beispiel der Einführung des Katalysatorautos*, Berlin: Sigma.

Huelshoff, Michael G. and Pfeiffer, Thomas (1991): "Environmental Policy in the EC: Neo-functionalist Sovereignty Transfer or Neo-realist Gate-keeping ?"; *International Journal* 47: 136-158.

Jachtenfuchs, Markus and Kohler-Koch, Beate (1996): "Regieren im dynamischen Mehrebenensystem", in Markus Jachtenfuchs and Beate Kohler-Koch (eds): *Europäische Integration*, Opladen: Leske & Budrich, pp. 15-44.

Jachtenfuchs, Markus, Hey, Christian and Strübel, Michael (1993): "Umweltpolitik in der Europäischen Gemeinschaft", in Volker von Prittwitz (ed.): *Umweltpolitik als Modernisierungsprozeß. Politikwissenschaftliche Umweltforschung and -lehre in der Bundesrepublik*, Opladen: Leske & Budrich, pp. 137-162.

Joerges, Christian (1991): "Markt ohne Staat. Die Wirtschaftsverfassung der Gemeinschaft and die regulative Politik", in: Rudolf Wildenmann (ed.): *Staatswerdung Europas ? Optionen für eine Europäische Union*, Baden-Baden: Nomos, pp. 225-267.

Joerges, Christian, Falke, Josef, Micklitz, Hans-Wolfgang and Brüggemeier, Gert (1988): *Die Sicherheit von Konsumgütern and die Entwicklung der Europäischen Gemeinschaft*, Baden-Baden: Nomos.

Johnson, Stanley P. and Corcelle, Guy (1989): *The Environmental Policy of the European Communities*, London: Graham & Trotman.

Koppen, Ida (1993): "The Role of the European Court of Justice", in J. Duncan Lieffering, Philip Lowe and Arthur P.J. Mol (eds): *European Integration and Environmental Policy*, London: Belhaven, pp. 126-149.

Krämer, Ludwig (1992): "Umweltpolitik", in: Claus-Dieter Ehlermann and Roland Bieber (eds): *Handbuch des Europäischen Rechts*, Band 'Umwelt', Baden-Baden: Nomos.

Krämer, Ludwig (1993): "Environmental Protection and Article 30 EEC Treaty", *Common Market Law Review* 30: 111-143.

Krämer, Ludwig (1995): *E.C. Treaty and Environmental Law*, London: Sweet & Maxwell (2. ed).

Küsters, Hanns Jürgen (1982): *Die Gründung der Europäischen Wirtschaftsgemeinschaft*, Baden-Baden: Nomos.

Majone, Giandomenico (1993): "Deregulation or Re-regulation? Policymaking in the European Union since the Single Act"; Working Paper SPS 93/2, Firenze: European University Institute.

Mancini, Federico (1991): "The Making of a Constitution for Europe", in Robert O. Keohane and Stanley Hoffmann (eds): *The European Community. Decisionmaking and Institutional Change*, Boulder: Westview, pp. 177-194.

Marks, Gary (1992): "Structural Policy in the European Community", in Alberta M. Sbragia (ed.): *Euro-Politics. Institutions and Policymaking in the 'New' European Community*, Washington D.C.: Brookings, pp. 191-224.

Marks, Garry, Hooghe, Liesbet and Blank, Kermit (1995): "European Integration and the State"; Working Paper RSC 95/7, Firenze: European University Institute.

Mendrinou, Maria (1996): "Non-compliance and the European Commission's Role in Integration", *Journal of European Public Policy* 3: 1-22.

Moravcsik, Andrew 1991: "Negotiating the Single European Act: National Interests and Conventional Statecraft in the European Community", *International Organization* 45: 19-56.

Moravcsik, Andrew (1993): "Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach", *Journal of Common Market Studies* 31: 473-524.

Porter, Martin and Butt Philip, Alan (1993): "The Role of Interest Groups in EU Environmental Policy Formulation: A Case Study of the Draft Packaging Directive"; *European Environment* 3, 6: 16-20.

Porter, Martin (1995a): "Scientific Uncertainty, the Role of Expertise and North-South Variations in the EU Environmental Process: The Case of Packaging and Packaging Waste"; *Zeitschrift für angewandte Umweltforschung* 8: 516-531.

Porter, Martin (1995b): "Cross-National Policy-Networks and the EU's Packaging and Packaging Waste Directive"; Paper presented at the Workshop 'New Nordic States and the Impact on EU Environmental Policy', Sonderborg, 6-8 April 1995.

Puchala, Donald J. (1984): *Fiscal Harmonization in the European Communities. National Politics and International Cooperation*, London: Pinter.

Rasmussen, Hjalte 1986: *On Law and Policy in the European Court of Justice. A Comparative Study in Judicial Policy Making*, Dordrecht.

Rehbinder, Eckard and Stewart, Richard (1985): "Environmental Protection Policy"; Mauro Cappelletti, Monica Secombe and Joseph Weiler (eds*): Integration through Law. Europe and the American Federal Experience*, Vol. 2, Berlin: de Gruyter.

Sandholtz, Wayne and John Zysman (1989): 1992: "Recasting the European Bargain", *World Politics* 42: 95-128.

Sandholtz, Wayne (1992): *High-level Europe: The Politics of International Cooperation*, Berkeley: University of California Press.

Sandholtz, Wayne (1993): "Choosing Union: Monetary Politics and Maastricht", *International Organization* 47: 1-39.

Sbragia, Alberta M. (1992): "Thinking about the European Future: The Uses of Comparison", in Alberta M. Sbragia (ed.): *Euro-Politics. Institutions and Policymaking in the 'New' European Community*, Washington D.C.: Brookings, pp. 257-291.

Sbragia, Alberta (1993): "EC Environmental Policy: Atypical Ambitions and Typical Problems ?", in Alan W. Cafruny and Glenda G. Rosenthal (eds): *The State of the European Community*, Vol. 2: *The Maastricht Debates and Beyond*, Boulder Coll.: Lynne Rienner, pp. 337-352.

Scharpf, Fritz W. (1985): "Die Politikverflechtungs-Falle: Europäische Integration and deutscher Föderalismus im Vergleich"; *Politische Vierteljahresschrift* 26: 323-356.

Scharpf, Fritz W. (1993): "Autonomieschonend and gemeinschaftsverträglch: Zur Logik der europäischen Mehrebenenpolitik"; Discussion-Paper 93/9, Köln: Max-Planck-Institut für Gesellschaftsforschung.

Scharpf, Fritz W (1996): "Politische Optionen im vollendeten Binnenmarkt", in Markus Jachtenfuchs and Beate Kohler-Koch (eds): *Europäische Integration*, Opladen: Leske & Budrich, pp. 109-140.

Shapiro, Martin (1992): "The European Court of Justice", in Alberta M. Sbragia (ed.): *Euro-Politics. Institutions and Policymaking in the 'New' European Community*, Washington D.C.: Brookings, pp. 123-156.

Stewart, Richard B. (1995): "Markets Versus Environment ?"; Jean Monnet Chair Papers 19, Firenze: Robert Schuman Centre at the European University Institute.

Taylor, Paul (1983): *The Limits of European Integration*, New York: Columbia University Press.

Taylor, Paul (1975): "The Politics of the European Communities: The Confederal Phase", *World Politics* 27: 336-360.

Weiler, Joseph H.H. (1991): "The Transformation of Europe", *Yale Law Journal* 100: 2403-2483.

Weiler, Joseph H.H. (1981): "The Community System: The Dual Character of Supranationalism", *Yearbook of European Law* 1: 267-306.

Weinstock, Ulrich (1984): "Nur eine europäische Umwelt ? Europäische Umweltpolitik im Spannungsfeld von ökologischer Vielfalt and ökonomischer Einheit", in Eberhard Grabitz (ed.): *Abgestufte Integration. Eine Alternative zum herkömmlichen Integrationskonzept ?*, Kehl/Rhein: Engel, pp. 301-344.

Zito, R. Anthony (1996): "The Evolving Arena of EU Environmental Policy: the Impact of Subsidiarity and Shared Responsibility", in Ute Collier, Jonathan Golub and Alexander Kreher (eds): *Subsidiarity and Shared Responsibility: New Challenges for EU Environmental Policy*, Baden-Baden: Nomos. in press.

Zürn, Michael (1996): "Die Implementation internationaler Umweltregime and 'positive Integration'"; Discussion-Paper 96/3, Köln: Max-Planck-Institut für Gesellschaftsforschung.

# EUI WORKING PAPERS

EUI Working Papers are published and distributed by the
European University Institute, Florence

Copies can be obtained free of charge
– depending on the availability of stocks – from:

The Publications Officer
European University Institute
Badia Fiesolana
I-50016 San Domenico di Fiesole (FI)
Italy

**Please use order form overleaf**

## Publications of the European University Institute

To

The Publications Officer
European University Institute
Badia Fiesolana
I-50016 San Domenico di Fiesole (FI) – Italy
Telefax No: +39/55/4685 636
E-mail: publish@datacomm.iue.it

From

Name .....
Address.....
.....
.....
.....
.....

❒ Please send me a complete list of EUI Working Papers
❒ Please send me a complete list of EUI book publications
❒ Please send me the EUI brochure Academic Year 1997/98

Please send me the following EUI Working Paper(s):

No, Author .....
*Title:* .....
No, Author .....
*Title*: .....
No, Author .....
*Title:* .....
No, Author .....
*Title:* .....

Date .....

Signature .....

## Working Papers of the Robert Schuman Centre

**RSC No. 94/1**
Fritz W. SCHARPF
Community and Autonomy Multilevel Policy-Making in the European Union *

**RSC No. 94/2**
Paul McALEAVEY
The Political Logic of the European Community Structural Funds Budget: Lobbying Efforts by Declining Industrial Regions *

**RSC No. 94/3**
Toshihiro HORIUCHI
Japanese Public Policy for Cooperative Supply of Credit Guarantee to Small Firms - Its Evolution Since the Post War and Banks' Commitment

**RSC No. 94/4**
Thomas CHRISTIANSEN
European Integration Between Political Science and International Relations Theory: The End of Sovereignty *

**RSC No. 94/5**
Stefaan DE RYNCK
The Europeanization of Regional Development Policies in the Flemish Region

**RSC No. 94/6**
Enrique ALBEROLA ILA
Convergence Bands: A Proposal to Reform the EMS in the Transition to a Common Currency

**RSC No. 94/7**
Rosalyn HIGGINS
The EC and the New United Nations

**RSC No. 94/8**
Sidney TARROW
Social Movements in Europe: Movement Society or Europeanization of Conflict?

**RSC No. 94/9**
Vojin DIMITRIJEVIC
The 1974 Constitution as a Factor in the Collapse of Yugoslavia or as a Sign of Decaying Totalitarianism

**RSC No. 94/10**
Susan STRANGE
European Business in Japan: A Policy Crossroads?

**RSC No. 94/11**
Milica UVALIC
Privatization in Disintegrating East European States: The Case of Former Yugoslavia

**RSC No. 94/12**
Alberto CHILOSI
Property and Management Privatization in Eastern European Transition: Economic Consequences of Alternative Privatization Processes

**RSC No. 94/13**
Richard SINNOTT
Integration Theory, Subsidiarity and the Internationalisation of Issues: The Implications for Legitimacy *

**RSC No. 94/14**
Simon JOHNSON/Heidi KROLL
Complementarities, Managers and Mass Privatization Programs after Communism

**RSC No. 94/15**
Renzo DAVIDDI
Privatization in the Transition to a Market Economy

**RSC No. 94/16**
Alberto BACCINI
Industrial Organization and the Financing of Small Firms: The Case of MagneTek

**RSC No. 94/17**
Jonathan GOLUB
The Pivotal Role of British Sovereignty in EC Environmental Policy

**RSC No. 94/18**
Peter Viggo JAKOBSEN
Multilateralism Matters but How?
The Impact of Multilateralism on Great Power Policy Towards the Break-up of Yugoslavia

*out of print

**RSC No. 94/19**
Andrea BOSCO
A 'Federator' for Europe: Altiero Spinelli and the Constituent Role of the European Parliament

**RSC No. 94/20**
Johnny LAURSEN
Blueprints of Nordic Integration. Dynamics and Institutions in Nordic Cooperation, 1945-72

***

**RSC No. 95/1**
Giandomenico MAJONE
Mutual Trust, Credible Commitments and the Evolution of Rules for a Single European Market

**RSC No. 95/2**
Ute COLLIER
Electricity Privatisation and Environmental Policy in the UK: Some Lessons for the Rest of Europe

**RSC No. 95/3**
Giuliana GEMELLI
American Influence on European Management Education: The Role of the Ford Foundation

**RSC No. 95/4**
Renaud DEHOUSSE
Institutional Reform in the European Community: Are there Alternatives to the Majoritarian Avenue? *

**RSC No. 95/5**
Vivien A. SCHMIDT
The New World Order, Incorporated: The Rise of Business and the Decline of the Nation-State

**RSC No. 95/6**
Liesbet HOOGHE
Subnational Mobilisation in the European Union

**RSC No. 95/7**
Gary MARKS/Liesbet HOOGHE/Kermit BLANK
European Integration and the State *

**RSC No. 95/8**
Sonia LUCARELLI
The International Community and the Yugoslav Crisis: A Chronology of Events

**RSC No. 95/9**
A Constitution for the European Union?
*Proceedings of a Conference, 12-13 May 1994, Organized by the Robert Schuman Centre with the Patronage of the European Parliament*

**RSC No. 95/10**
Martin RHODES
'Subversive Liberalism': Market Integration, Globalisation and the European Welfare State

**RSC No. 95/11**
Joseph H.H. WEILER/ Ulrich HALTERN/ Franz MAYER
European Democracy and its Critique - Five Uneasy Pieces

**RSC No. 95/12**
Richard ROSE/Christian HAERPFER
Democracy and Enlarging the European Union Eastward

**RSC No. 95/13**
Donatella DELLA PORTA
Social Movements and the State: Thoughts on the Policing of Protest

**RSC No. 95/14**
Patrick A. MC CARTHY/Aris ALEXOPOULOS
Theory Synthesis in IR - Problems & Possibilities

**RSC No. 95/15**
Denise R. OSBORN
Crime and the UK Economy

**RSC No. 95/16**
Jérôme HENRY/Jens WEIDMANN
The French-German Interest Rate Differential since German Unification: The Impact of the 1992-1993 EMS Crises

**RSC No. 95/17**
Giorgia GIOVANNETTI/Ramon MARIMON
A Monetary Union for a Heterogeneous Europe

**RSC No. 95/18**
Bernhard WINKLER
Towards a Strategic View on EMU - A Critical Survey

*out of print

**RSC No. 95/19**
Joseph H.H. WEILER
The State "über alles"
Demos, Telos and the German Maastricht Decision

**RSC No. 95/20**
Marc E. SMYRL
From Regional Policy Communities to European Networks: Inter-regional Divergence in the Implementation of EC Regional Policy in France

**RSC No. 95/21**
Claus-Dieter EHLERMANN
Increased Differentiation or Stronger Uniformity

**RSC No. 95/22**
Emile NOËL
La conférence intergouvernementale de 1996
Vers un nouvel ordre institutionnel

**RSC No. 95/23**
Jo SHAW
European Union Legal Studies in Crisis?
Towards a New Dynamic

**RSC No. 95/24**
Hervé BRIBOSIA
The European Court and National Courts - Doctrine and Jurisprudence: Legal Change in its Social Context
*Report on Belgium*

**RSC No. 95/25**
Juliane KOKOTT
The European Court and National Courts - Doctrine and Jurisprudence: Legal Change in its Social Context
*Report on Germany*

**RSC No. 95/26**
Monica CLAES/Bruno DE WITTE
The European Court and National Courts - Doctrine and Jurisprudence: Legal Change in its Social Context
*Report on the Netherlands*

**RSC No. 95/27**
Karen ALTER
The European Court and National Courts - Doctrine and Jurisprudence: Legal Change in its Social Context
*Explaining National Court Acceptance of European Court Jurisprudence: A Critical Evaluation of Theories of Legal Integration*

**RSC No. 95/28**
Jens PLÖTNER
The European Court and National Courts - Doctrine and Jurisprudence: Legal Change in its Social Context
*Report on France*

**RSC No. 95/29**
P.P. CRAIG
The European Court and National Courts - Doctrine and Jurisprudence: Legal Change in its Social Context
*Report on the United Kingdom*

**RSC No. 95/30**
Francesco P. RUGGERI LADERCHI
The European Court and National Courts - Doctrine and Jurisprudence: Legal Change in its Social Context
*Report on Italy*

**RSC No. 95/31**
Henri ETIENNE
The European Court and National Courts - Doctrine and Jurisprudence: Legal Change in its Social Context
*Report on Luxembourg*

**RSC No. 95/32**
Philippe A. WEBER-PANARIELLO
The Integration of Matters of Justice and Home Affairs into Title VI of the Treaty on European Union: A Step Towards more Democracy?

**RSC No. 95/33**
Debra MATIER
Data, Information, Evidence and Rhetoric in the Environmental Policy Process:
The Case of Solid Waste Management

**RSC No. 95/34**
Michael J. ARTIS
Currency Substitution in European Financial Markets

**RSC No. 95/35**
Christopher TAYLOR
Exchange Rate Arrangements for a Multi-Speed Europe

**RSC No. 95/36**
Iver B. NEUMANN
Collective Identity Formation: Self and Other in International Relations

*out of print

**RSC No. 95/37**
Sonia LUCARELLI
The European Response to the Yugoslav Crisis: Story of a Two-Level Constraint

**RSC No. 95/38**
Alec STONE SWEET
Constitutional Dialogues in the European Community

**RSC No. 95/39**
Thomas GEHRING
Integrating Integration Theory: Neofunctionalism and International Regimes

**RSC No. 95/40**
David COBHAM
The UK's Search for a Monetary Policy: In and Out of the ERM

***

**RSC No. 96/1**
Ute COLLIER
Implementing a Climate Change Strategy in the European Union: Obstacles and Opportunities

**RSC No. 96/2**
Jonathan GOLUB
Sovereignty and Subsidiarity in EU Environmental Policy

**RSC No. 96/3**
Jonathan GOLUB
State Power and Institutional Influence in European Integration: Lessons from the Packaging Waste Directive

**RSC No. 96/4**
Renaud DEHOUSSSE
Intégration ou désintégration? Cinq thèses sur l'incidence de l'intégration européenne sur les structures étatiques

**RSC No. 96/5**
Jens RASMUSSEN
Integrating Scientific Expertise into Regulatory Decision-Making.
*Risk Management Issues - Doing Things Safely with Words: Rules and Laws*

**RSC No. 96/6**
Olivier GODARD
Integrating Scientific Expertise into Regulatory Decision-Making.
*Social Decision-Making under Conditions of Scientific Controversy, Expertise and the Precautionary Principle*

**RSC No. 96/7**
Robert HANKIN
Integrating Scientific Expertise into Regulatory Decision-Making.
*The Cases of Food and Pharmaceuticals*

**RSC No. 96/8**
Ernesto PREVIDI
Integrating Scientific Expertise into Regulatory Decision-Making.
*L'organisation des responsabilités publiques et privées dans la régulation européenne des risques: un vide institutionnel entre les deux?*

**RSC No. 96/9**
Josef FALKE
Integrating Scientific Expertise into Regulatory Decision-Making.
*The Role of Non-governmental Standardization Organizations in the Regulation of Risks to Health and the Environment*

**RSC No. 96/10**
Christian JOERGES
Integrating Scientific Expertise into Regulatory Decision-Making.
*Scientific Expertise in Social Regulation and the European Court of Justice: Legal Frameworks for Denationalized Governance Structures*

**RSC No. 96/11**
Martin SHAPIRO
Integrating Scientific Expertise into Regulatory Decision-Making.
*The Frontiers of Science Doctrine: American Experiences with the Judicial Control of Science-Based Decision-Making*

**RSC No. 96/12**
Gianna BOERO/Giuseppe TULLIO
Currency Substitution and the Stability of the German Demand for Money Function Before and After the Fall of the Berlin Wall

*out of print

**RSC No. 96/13**
Riccardo MARSELLI/Marco VANNINI
Estimating the Economic Model of Crime in the Presence of Organised Crime: Evidence from Italy

**RSC No. 96/14**
Paul DE GRAUWE
The Economics of Convergence Towards Monetary Union in Europe

**RSC No. 96/15**
Daniel GROS
A Reconsideration of the Cost of EMU
The Importance of External Shocks and Labour Mobility

**RSC No. 96/16**
Pierre LASCOUMES/Jérôme VALLUY
Les activités publiques conventionnelles (APC): un nouvel instrument de politique publique? L'exemple de la protection de l'environnement industriel

**RSC No. 96/17**
Sharmila REGE
Caste and Gender: The Violence Against Women in India

**RSC No. 96/18**
Louis CHARPENTIER
L'arrêt "Kalanke", expression du discours dualiste de l'égalité

**RSC No. 96/19**
Jean BLONDEL/Richard SINNOTT/Palle SVENSSON
Institutions and Attitudes: Towards an Understanding of the Problem of Low Turnout in the European Parliament Elections of 1994

**RSC No. 96/20**
Keith BLACKBURN/Lill HANSEN
Public Policy and Economic Growth in an Imperfectly Competitive World of Interdependent Economies

**RSC No. 96/21**
John ARROWSMITH
Pitfalls on the Path to a Single European Currency

**RSC No. 96/22**
Roel M.W.J. BEETSMA/A. Lans BOVENBERG
Does Monetary Unification Lead to Excessive Debt Accumulation?

**RSC No. 96/23**
Margaret LEVI
A State of Trust

**RSC No. 96/24**
Lorenzo BINI SMAGHI
How Can the ECB be Credible?

**RSC No. 96/25**
Olivier FILLIEULE
Police Records and the National Press in France. Issues in the Methodology of Data-Collection from Newspapers

**RSC No. 96/26**
Peter H. SCHUCK
The Re-evaluation of American Citizenship

**RSC No. 96/27**
Peter ROBINSON
The Role and Limits of Active Labour Market Policy

**RSC No. 96/28**
Sasha BAILLIE
The Seat of the European Institutions: An Example of Small State Influence in European Decision-making

**RSC No. 96/29**
Neil WINN
The Limits of International Organisation Leadership? European Crisis Management in the 1980s and the Inherent Tension Between Bilateralism and Collectivism

**RSC No. 96/30**
Paul ORMEROD
Unemployment: A Distributional Phenomenon

**RSC No. 96/31**
Marlene WIND
Europe Towards a Post-Hobbesian Order? A Constructivist Theory of European Integration (Or how to explain European Integration as an unintended consequence of rational state-action)

**RSC No. 96/32**
Marlene WIND
Rediscovering Institutions: A Reflectivist Critique of Rational Institutionalism

**RSC No. 96/33**
Evelyne RITAINE
Hypothèses pour le sud de l'Europe: territoires et médiations

*out of print

**RSC No. 96/34**
Ever B. NEUMANN
Russia as Europe's Other

**RSC No. 96/35**
Lars LJUNGQVIST/Thomas J. SARGENT
The European Unemployment Dilemma

**RSC No. 96/36**
Maurizio FERRERA
A New Social Contract?
*The Four Social Europes: Between Universalism and Selectivity*

**RSC No. 96/37**
Serge PAUGAM
A New Social Contract?
*Poverty and Social Exclusion: A Sociological View*

**RSC No. 96/38**
Sophie BODY-GENDROT
A New Social Contract?
*Le traitement de l'intégration et de la marginalisation culturelle en France*

**RSC No. 96/39**
Paul ORMEROD
A New Social Contract?
*Unemployment in Europe*

**RSC No. 96/40**
Karel VAN DEN BOSCH
A New Social Contract?
*Trends in Financial Poverty in Western European Countries*

**RSC No. 96/41**
Giovanna PROCACCI
A New Social Contract?
*Against Exclusion: The Poor and the Social Sciences*

**RSC No. 96/42**
Ulrike GÖTTING
A New Social Contract?
*In Defence of Welfare: Social Protection and Social Reform in Eastern Europe*

**RSC No. 96/43**
Martin RHODES
A New Social Contract?
*Globalisation and West European Welfare States*

**RSC No. 96/44**
Fritz SCHARPF
A New Social Contract?
*Negative and Positive Integration in the Political Economy of European Welfare States*

**RSC No. 96/45**
Bob DEACON
A New Social Contract?
*Global and Regional Agencies and the Making of Post-Communist Social Policy in Eastern Europe*

**RSC No. 96/46**
Colin CROUCH
A New Social Contract?
*The Social Contract and the Problem of the Firm*

**RSC No. 96/47**
Bill JORDAN
A New Social Contract?
*European Social Citizenship: Why a New Social Contract Will (Probably) Not Happen*

**RSC No. 96/48**
Carlos CLOSA
A New Social Contract?
*EU Citizenship as the Institutional Basis of a New Social Contract: Some Sceptical Remarks*

**RSC No. 96/49**
Alexander KREHER
The New European Agencies
*Conference Report*

**RSC No. 96/50**
Karl-Heinz LADEUR
The New European Agencies
*The European Environment Agency and Prospects for a European Network of Environmental Administrations*

**RSC No. 96/51**
Rod A. W. RHODES
The New European Agencies
*Agencies in British Government: Revolution or Evolution?*

**RSC No. 96/52**
Jonathan GOLUB
Why Did They Sign? Explaining EC Environmental Policy Bargaining

*out of print

**RSC No. 96/53**
Thomas CHRISTIANSEN
Reconstructing European Space: From Territorial Politics to Multilevel Governance

**RSC No. 96/54**
Elisabeth PAULET
Universal Banks and the European Banking System: Prospects and Problems

**RSC No. 96/55**
Michael J. ARTIS/Wenda ZHANG
Business Cycles, Exchange Rate Regimes and the ERM: Is there a European Business Cycle?

**RSC No. 96/56**
Walter MATTLI/Anne-Marie SLAUGHTER
Constructing the European Community Legal System from the Ground Up: The Role of Individual Litigants and National Courts

**RSC No. 96/57**
Giandomenico MAJONE
Temporal Consistency and Policy Credibility: Why Democracies Need Non-Majoritarian Institutions

**RSC No. 96/58**
Jonathan GOLUB
Modelling Judicial Dialogue in the European Community: The Quantitative Basis of Preliminary References to the ECJ

**RSC No. 96/59**
Alec STONE SWEET
Judicialization and the Construction of Governance

**RSC No. 96/60**
Ute COLLIER
Deregulation, Subsidiarity and Sustainability: New Challenges for EU Environmental Policy

**RSC No. 96/61**
Ray BARRELL/Julian MORGAN/ Nigel PAIN
The Impact of the Maastricht Fiscal Criteria on Employment in Europe

**RSC No. 96/62**
Carol HARLOW
"Francovich" and the Problem of the Disobedient State

**RSC No. 96/63**
Thomas GEHRING
Environmental Policy in the European Union. Governing in Nested Institutions and the Case of Packaging Waste

*out of print