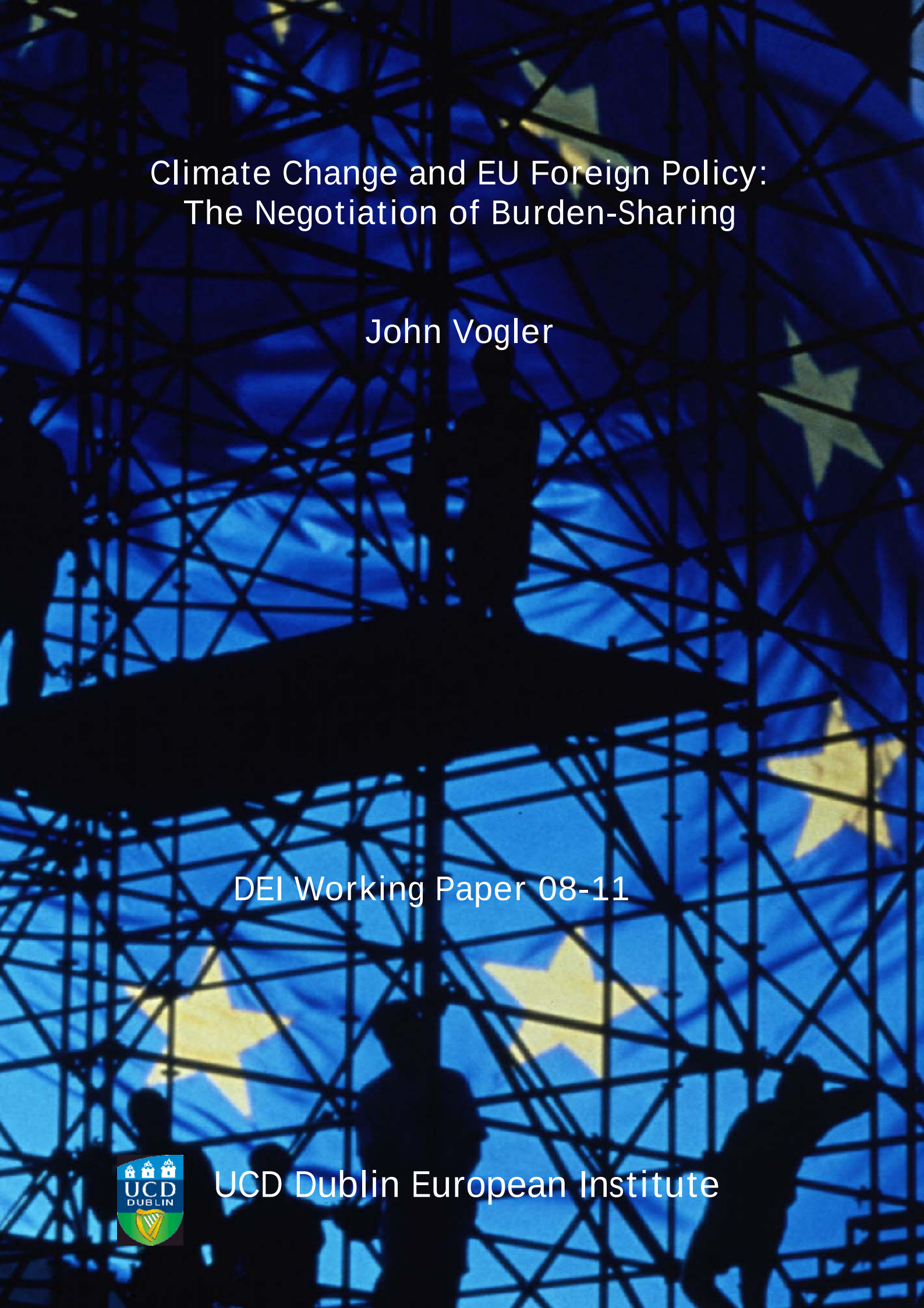

Climate Change and EU Foreign Policy: The Negotiation of Burden-Sharing

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Climate Change and EU Foreign Policy: The Negotiation of Burden Sharing

Abstract

The European Union has established itself as the leader of attempts to construct a global climate change regime. This has become an important normative stance, part of its self image and international identity. Yet it has also come to depend on the Union's ability to negotiate internally on the distribution of the burdens necessitated by its external pledges to cut emissions. The article attempts to consider institutionalist hypotheses on cooperative bargaining and normative entrapment in the cases of the EU's internal negotiations prior to the 1997 Kyoto protocol negotiations and the more recent approach to negotiations on a post 2012 regime. It finds that there is evidence to support the normative entrapment hypothesis in both cases, but that agreement in 1997 was facilitated by a very favourable context associated with a 1990 baseline and that the fate of the Union's current commitments is as yet unclear.

Perhaps the first thing to say about the EU in global climate politics, and environmental politics more generally, is how significant the Union has become. The contrast between the inadequacies and evident failures of the CFSP and the achievements of the Union in successfully promoting the ratification of the Kyoto Protocol, in the face of outright US opposition, are striking. The Union provided the ambition that drove the search for an agreement based on targets and timetables under the 1995 Berlin mandate, implemented the world's first international emissions trading system in response to its Kyoto obligations and performed the complex diplomacy that led to eventual entry into force of the Protocol on 16 February 2005. The Kyoto emissions reduction commitments of 5.2% for the developed parties, inadequate as they are, have to be fulfilled by 2012. This meant that even as the Protocol entered into force, the quest for a new post 2012 climate regime began in earnest. From the perspective of the European Community this must build upon all that has been so painstakingly achieved in developing the Protocol. However, this is difficult to align with the necessity of involving the United States and the large developing nations who are not bound by the Protocol and whose participation in a future climate regime is mutually contingent. Thus the British joint presidency of the

EU and G8 in 2005 initiated a parallel G8+5 climate process (sometimes seeming to be at odds with the EU's attachment to Kyoto) but which was successfully followed up by the German joint presidency in 2007. The result has been twin track discussions on post 2012, initiated at the Montreal Conference of the Parties (CoP 11/MoP1) and developed in the 2007 'Bali Roadmap' at CoP13/MoP3. These arrangements meet US objections by allowing the latter to participate in discussions of the future of the UN Framework Convention but not of its Protocol. Just as the Berlin Mandate set a deadline for agreement of 1997 so the Bali Roadmap set the goal of new agreement by the CoP to be held in Copenhagen in 2009.

This paper's focus is upon two periods in this long process of regime creation. The first involves the EU's response to the Berlin Mandate 1995-7 which led up to the agreement on the Kyoto Protocol. The second is the search for a post 2012 regime from 2005. The UN Framework Convention on Climate Change (UNFCCC) architecture is extraordinarily complex and Parties, like the EC and its Member States, are involved in a range of technical and political issues, but the analysis below is restricted to one essential aspect – targets and timetables. Not only is this the headline issue in climate discussions but it is the matter that most sharply differentiates the EU from the United States. For the EU, leadership in the emerging climate regime has meant public commitment to emissions reduction targets in advance of international negotiations – 15% before Kyoto and latterly the 20/30% position for the post 2012 discussions (against a 1990 baseline for 2012 and 2020 respectively). The EU's internal negotiation problem is that these declaratory targets, to be credible, require an allocation of burdens (or 'effort') amongst the Member States which have serious national implications for growth rates and competitiveness. Thus, the negotiation of climate policy provides a particularly stern test for a theory EU foreign policy-making

that claims to demonstrate that institutional factors and normative entrapment can over-ride or modify hard bargaining based upon national economic interests. Counteracting the pursuit of short term energy and economic gains is not only a sense of genuine alarm over the growing evidence on the likelihood and impact of climate change, but also the major significance of climate leadership as a critical aspect of the EU's international identity as an actor and one that is assiduously fostered by Commission, the Council and leading Member States (Bretherton & Vogler, 2006, Ch.2). Climate leadership involves normative and policy commitments that have become very significant 'for the functionality and credibility of the EU as a global actor' (Thomas 2008, 6).

Climate policy-making

In common with other areas of external environmental policy, competence is shared between the Community and Member States when dealing with international climate issues.[1] For some issues, such as POPs or hazardous waste, high degrees of Community competence mean that the Commission dominates in external relations, but this is not the case for climate change. Here the greater part of competence for the issues under discussion (such as energy policy or taxation) lies with the Member States. The Commission cannot sensibly be excluded and its technical work is vital. It is often referred to by participants as an extra Member State. Competence has rarely been disputed in recent years although the current system (unreformed since the defeat of the Constitutional Treaty) places a heavy burden on the rotating presidency and the EU's performance has definitely varied from one presidency to the next, with smaller Member States relying heavily upon the Council Secretariat (Interview, Council Secretariat September, 2005). Leadership, thus, depends upon the presidency operating with the

Council Secretariat and the Council's climate change working Group. Up until 1997 this was referred to as the Ad Hoc Group on Climate Change. In the more recent period it is a sub group of the Council Working Party on International Environmental Issues (WPIEI/CC), alongside other groups on biosafety, biodiversity and sustainable development (ibid.). Significantly it is formed by representatives from DG Environment of the Commission and climate specialists from Member State environment ministries who meet once or twice a month in Brussels and also attend UNFCCC CoPs and other meetings. As well as supporting their national positions members of the WPIEI/CC have also developed a strong collective commitment to the EU's international climate leadership role (ibid.). The group drafts climate change conclusions for the Council which are passed upwards through COREPER. Finally, the European Council has been increasingly active in the endorsement and on occasion negotiation of climate policy.

Effectively the EU has negotiated at 16 and then at 28, (Commission plus the MS). Recently, a *troika* of the current and next presidents in office plus the Commission has been employed in climate discussions. The practice has also grown up of allowing 'lead states' to develop certain issues and positions on behalf of the Union.

Although observers have referred to 'Herculean problems of co-ordination', especially during CoPs and notably in 2000 (Grubb & Yamin, 2001), the EU's complex internal arrangements have not, however, prevented it from being the fulcrum around which international climate negotiations have moved. The tight coupling of internal and external climate policy has been increased by the introduction of the ETS along with the Linking Directive (for associating the ETS with the CDM and other Kyoto mechanisms) The ETS directive (2003/87/EC) plus the proposed 2008 Decision on Member State effort to reduce greenhouse gas (ghg) emissions plus the amending directive on ETS, which greatly expands Community competence, are all subject to the rigours of co-

decision with the European Parliament and Council (Commission, 2008a,b.). Thus the complexity and character of EU climate decision-making has changed between 1997 and 2008 and is likely to change further. The 1997 and 1998 decisions were taken in the Council of Ministers and while this remained the case for target setting in 2007, the parallel and highly significant allocative decisions under Phase II of the ETS relied upon centralised and legally enforced review by the Commission.

Member States' preferences

As signatories to the 1992 UNFCCC the European Community and its Member States accepted a non-binding objective (under UNFCCC Art.4.2), already agreed by the Council in 1990, to return their ghg emissions to 1990 levels by the year 2000. The Commission, went on to calculate that a 'technical potential' existed for a reduction of CO^2 emissions of the order of 10% below 1990 levels by 2010 at 'no or low costs provided positive synergies between climate change and several other policy areas of the Community are exploited' (Commission,1996, v-vi). However, the ambitions and capabilities of Member States displayed and continue to display some extensive disparities.

The figures in Table 1, representing the situation in 2005-7, illustrate the wide variations in economic scale, level of development and ghg emissions of the 27 Member States. The matter is further complicated by the different energy mix to be found in the Member States, some like France being heavily reliant upon nuclear, others upon coal or gas or increasingly turning to renewables. Equally, the environmental orientation of Member States, their willingness and ability to shoulder the burdens of ghg mitigation has varied between North and South and now between West and East. These differences constitute the basic structure of interrelated external

climate policy and 'burden sharing' negotiations within the Council. The inseparability of external and internal policy in relation to climate cannot be over-emphasised. Establishing common positions in advance of Kyoto and more recently in respect of a post 2012 regime may have far-reaching implications for the performance of Member State economies and , indeed, for the political fortunes of their governments.

[TABLE 1]

Prior to the 1997 Burden Sharing Agreement (BSA), it would be possible to refer to three distinct groups of Member States. First the 'advanced' green states which had been in the vanguard of environmental policy-making in Europe, notably Germany, the Netherlands Austria and the Scandinavians (Andersen & Liefferink, 1997), only Germany and to a lesser extent the Netherlands, being responsible for substantial portions of the EU emissions total. Germany under both the CDU government and the Red-green coalition of 1998-2005 proved to be an early convert to the necessity for extensive action to counteract climate change and it was environment minister Angela Merkel who, at the UNFCCC CoP I in Berlin in 1995, reiterated a national commitment (first made in 1990) to a 25-30% reduction in ghg emissions by 2005 against 1987 levels (Commission, 1996, 44). Its achievement appeared feasible because of the 'one off' benefits associated with the re-unification of Germany and the opportunity that it provided to count the emissions savings associated with the closure and re-structuring of inefficient ex GDR plant as national reductions against a 1990 baseline. The 25-30% reduction target was subsequently reduced to 21% at the outset of negotiations on the BSA. Actual German emissions fell very sharply in the

first half of the 1990s but subsequently the rate of decrease levelled off. Nonetheless, Germany has remained the foremost proponent of extensive climate action by the Union – proposing 40% reductions by 2020 at the Heiligendamm G8 meeting in 2007. 'No other country has been as important to establishing the EU burden sharing goal as Germany' (Schreurs & Tiberghien, 2007,6)

Another important 'green leader' state was the Netherlands. The Dutch occupied the EU presidency at a critical juncture in 1997 and had already established themselves as proactive developers of climate policy (Anderson & Mol, 2002). As a state with a substantial part of its territory at or below sea level an early concern with avoiding the predicted consequences of the enhanced greenhouse effect, was understandable. In 1989 Dutch policy-makers established the requirement for a stabilisation of ghg emissions at 1990 levels by 2000 and then a 3-5% reduction of CO^2 (Commission 1996: 51), It is, however, worth noting that being largely dependent upon coal for power generation and having abandoned nuclear development, the Netherlands was in a much more difficult position in terms of actually implementing ambitious reduction targets than some other Member States. Austria and Denmark planned a 20% reduction of CO^2 emissions by 2005 against 1988 levels while Finland hoped to halt the growth of its energy related emissions by the end of the 1990s and Sweden proposed stabilisation at 1990 levels by 2000 (Commission, 1996, 37,40,41,55).

A second group of countries would include the UK, France, Belgium, Luxemburg and Italy, relatively rich and developed members of the Union with a substantial legacy of historic emissions to their name. Their enthusiasm for environmental policy initiatives was mixed and there was no immediate desire to go beyond the stabilisation of emissions. The United Kingdom was in a position to make

substantial reductions against a 1990 baseline at little or no cost, because of the destruction of its deep coal mining industry and the consequent 'dash for gas' in power generation. In 1995 it only had a national commitment to stabilisation of emissions at 1990 levels by 2000, but this position was soon to change (Commission 1996:57). The arrival of the New Labour administration led by Tony Blair meant that the opportunity to play a leading role in climate politics at Kyoto and beyond began to be seized. New Labour had campaigned in 1997 on a manifesto commitment to 20% CO^2 reductions by 2010. Despite various internal shortcomings in relation to this target Prime Minister Blair was to emphasise climate change, particularly in his strategy for the UK G8 presidency in 2005. Thus after 1997 the UK was to move from the position of climate change laggard to something of a leader, particularly in the controversial struggle to re-engage the United States. Blair, for example, personally intervened with President Bush to persuade the US to alter its blocking stance during the 2005 Montreal CoP (Interview, Council Secretariat, 2006).

In the mid 1990s Belgium stood out as the only Member State not to have ratified the UNFCCC and it too only had a national commitment to reduction to 1990 levels by 2000 along with France and Italy. France, because of its limited CO^2 emissions, deriving from a 78% reliance upon nuclear for its power generation and its relatively under-developed domestic green politics played 'a very limited role' in climate politics up until 2005 (Schreurs & Tiberghien, 2007, 39)[2] Italy, faced with fast increasing emissions and under the leadership of Berlusconi was to become a major opponent of extending the Kyoto commitments within the EU, playing what one official described as an 'obstructive role' in the Council (Interview Council Secretariat, 2006).

A third group comprised the 'cohesion' countries (defined as those with a GDP per cap. Below 90% of the EU average and eligible thereby for special financial assistance), characterised by low per capita emissions, a limited contribution to the overall EU emissions total but the expectation that this contribution would increase very rapidly as economic growth took hold over the next decade or more. For them it was a question of the levels at which emissions increases could be held at the year 2000. The figure proposed by Portugal, with the lowest GDP per capita of the entire Union was 40%, for Spain 24%, Ireland 20% and Greece 15% (Commission 1996, 52, 54, 47, 46).

These different national commitments and baselines were further complicated by subsidiary targets, put forward by some but not all Member States for other greenhouse gases, nitrous oxide and methane. These three gases were those mentioned in the original UNFCCC (the CFCs – also potent ghgs being controlled under the Montreal Protocol). Part of the Kyoto deal was to further elaborate and complicate the regime and the operation of the mechanisms by adding three additional 'industrial' greenhouse gases to form a 'six gas basket'.

The Approach to Kyoto

The Union had committed itself to the Berlin Mandate in 1995 and the Commission was involved, alongside the Member States in the AGBM talks preparatory to the projected final agreement on a Protocol at Kyoto in December 1997. The mandate itself was relatively flexible in order to include the US. The parties agreed to initiate a process leading to 'a protocol or other legal instrument'. There was no mention of 1990 as a base year and instead of 'targets and timetables' the term 'quantified emission limitation and reduction objectives within specified time-frames'

(QUELROs) was deployed. During CoP 1 various Member States had urged actual reductions from 1990 levels (ENB, 1995, 12,19, 2) but there was no agreed EU position on an overall target for the Annex I developed countries (an outcome of CoP I, strongly supported by the EU was that non-Annex I developing countries would not have to undertake mandatory emissions reduction commitments). EU support for QUELROs continued in the series of regular meetings of the Ad Hoc Group on the Berlin Mandate (AGBM) that were designed to pave the way to agreement on a protocol at the Kyoto CoP 3. At the AGBMs the EU tabled a draft protocol and placed heavy, but unsuccessful emphasis upon the need for agreed mandatory 'policies and measures' to reduce ghg emissions. At AGBM 3 in March 1996 Germany proposed reduction targets of 10% by 2005 and 15-20% by 2010 (against a 1990 baseline) but this was not an agreed EU position (ENB 1996,12,27). There was clearly both a requirement and a major opportunity for EU leadership, something that was being stressed by the Commission's DG XI (Environment) in internal discussions (Ringius, 1997). It was at AGBM 6 held between 3-7 March 1997 that the Dutch Presidency was able to make a decisive commitment by the Union to a 15% emissions reduction target by 2010 for the Annex I countries (ENB 1997,12,45,10). This served to shape the negotiations on QUELROs in the few months remaining until the Kyoto CoP. Nailing the EU's colours to this ambitious negotiating target required internal agreement on the collective means of delivering such reductions. This was finally achieved at a Council meeting on the same day, 3 March 1997, that the AGBM meeting convened. The EU entered into the Kyoto negotiations on the basis of Council Conclusions of 3 March and 19 June 1997 to the effect that industrialised parties to the Protocol should 'individually or jointly, reduce their emission levels of greenhouse gases by at least 7.5% in 2005 an by 15%

in 2010 as compared with 1990 values. The objective would be achieved by the Community as a whole (the "Community bubble") by means of burden sharing which would allow certain Member States not to change and even to increase their emissions while others would undertake to reduce them beyond the overall target'(Council, 1997).

Internal negotiation of the Kyoto mandate and burden-sharing

While it had been clear throughout the early 1990s that some form of burden-sharing would be necessary, if the EU was to move beyond its agreement of October 1990 to stabilise CO^2 and exercise leadership in the global negotiations, 'no substantial progress had been achieved until 1997' (Ringius,1997,17).[3] Developments or rather the lack of developments in the AGBM and the imminence of the Kyoto CoP made the matter urgent. The Commission pressed the view strongly that in order to attain a global leadership role the EU had to propose a politically credible target and that this must be no less than a 10% reduction of ghg emissions by 2005 (from a 1990 baseline) (ibid. 1997, 19). The coincidence of the next AGBM meeting and EU Spring Environment Council in March 1997 set a clear deadline.

The Netherlands assumed the presidency on 1 January 1997 in the aftermath of a December 1996 Environment Council that had failed to agree on an EU position on specific 'targets and timetables'. Dutch officials proceeded to implement consultations at a technical level to resolve the issue of finding a common position on emissions reductions that would equitably accommodate the divergent national energy interests of Member States. By all accounts the strategy had been long prepared and involved the ingenious solution of disaggregating national emissions sources in what was known as the 'Triptique'. The idea was to overcome entrenched national

resistance centred on single emission targets by dividing all emissions up into three sectors 1) the light domestic 2) energy intensive export oriented and 3) power generation; and treating them separately for the purposes of re-calculating national emissions allowances. The 'Triptique' was unveiled to national representatives on the Ad Hoc Group on Climate Change at a workshop held at Zeist on 16-17 January 1997. There, four potential solutions arising from the Triptique analysis were discussed in advance of a political decision by the upcoming Environment Council meeting (Ringius, 1997, 24-6). The Dutch presidency then proposed an overall EU target of 10% by 2005 and 15% by 2010 to serve as a negotiating position at the AGBM and Kyoto plus a set of national emissions reduction targets, by which it might be achieved, derived from the Zeist workshop and the Triptique. The latter went significantly further than informal pledges made by some Member States (which would have resulted in an overall EU reduction of 11%. For Germany, Belgium, Greece, Ireland, and Finland 5% increases in targets were proposed. For Luxembourg and UK 10% increases were proposed. For all the others, and most significantly the Netherlands, itself, no increases were proposed. These differences formed the substance of the Ad Hoc Group on Climate held on January 17-18th at which various Member States held the increases to be unacceptable.

The Environment Council met under the pressure of the immediacy of the AGBM meeting and with urging from the Commission and Germany that anything less than a stated position of a 10% reduction by the industrialised countries would be a disaster for EU aspirations to climate leadership. However, irritated by the apparently self-serving proposal of the Dutch to restrict their own contribution to a 5% reduction; Germany, Belgium and the UK rejected the presidency's proposals as did Greece and Portugal. This left the meeting with a set of minimum contributions by

a range of Member States amounting to no more than a 10% reduction for the EU as a whole. The day was saved by the Danish minister who came up with a pragmatic solution. This was simply to accept the contributions as an interim agreement on a 10% reduction but to go forward to the global negotiations with a target of 15%, thus allowing the EU to take the lead in the AGBM discussions. If a 15% reduction was to be negotiated at Kyoto then the EU would have to revisit the matter and find ways of achieving the further 5% reduction. If not there would not be a problem.[4] In the event this proved to be an accurate estimate. The EU entered into the Kyoto negotiations with a widely admired 15% target in its negotiating mandate. What emerged form Kyoto was a 5.2 % average reduction for Annex I countries by the end of the first commitment period 2008-12.

[TABLE 2]

The EU's share in what was described as a global bubble was an 8% reduction in ghg emissions against a 1990 baseline. In 1998 the Council moved to translate this into a revised version of the BSA with significantly reduced national emissions commitments. Even so they have been hard to achieve.

There is some fit between the 1997 BSA negotiations and the competitive (H-3) and the co-operative bargaining hypotheses (H-2). The Environment Council of 3 March had many of the hallmarks of competitive bargaining as Member States backed way from the presidency proposals and insisted upon protecting their national interests in the face of perceived 'non-cooperation' by the Netherlands and other partners. Because of the potential impact upon industrial competitiveness of national mitigation measures it might also be possible to characterise this phase of the negotiations in terms of a zero-sum competition. However the Triptique- based

discussions served to 'reframe' them, establishing a formula within which distributive bargaining could occur over detail (Zartmann, 1976).[5] It certainly helped to establish a 'contract zone' from a disparate set of national positions founded upon differing assumptions and baselines. Yet how far was this pre-Council exercise truly 'integrative' in character? An argument that it was, could be constructed on the basis of the way in which the export competitive sector, where differing energy costs within the Single Market might have been regarded as setting up a zero-sum competition, was abstracted. Similarly, there was the formula devised to justify the increases allowed to the cohesion countries where a slow convergence to equivalent *per capita* emissions across the Community by 2030 was envisaged. In respect of the cohesion countries the existence of side payments that might serve to increase the sum of the game, by persuading cohesion countries that if they were to reduce the scale of their projected emissions they would be compensated through the Community's structural and other funding mechanisms is disputed. Ringius (1997, 39) is certain that this was not the case and that leader countries simply relied upon exhortation rather than any attempt to make an explicit compensatory link between the Cohesion and Structural funds and abatement costs while Desai & Michaelowa (2001,332) claim that the expectation of side payments was a factor in Portugal's acceptance of the final BSA where a 27% increase represented a very ambitious climate change policy (ibid.339).

Taken as a whole, and in line with other environmental policy areas (Vogler, 1999) there does not appear to have been a retreat to a lowest common denominator solution or a situation in which the EU convoy was condemned to move at the speed of the slowest ship. Member States had already moved beyond a simple 'business as usual' or 'stabilisation at 1990 levels' approach. A real overall reduction was accepted as the necessary basis for climate leadership. Nonetheless, a moment of

'lowest common denominator' behaviour was observable amongst those states that reacted against the presidency proposal. The BSA agreement was enabled by the very favourable circumstances associated with the 1990 baseline. Germany, a convinced green leader, was able to cover 85% of the required emissions reductions without excessive sacrifice. Similarly the United Kingdom contribution was well within its own national target, set by the incoming Blair government at 20%. Indeed while other countries revised their contribution downwards in 1987, the Blair government was able to offer more with its agreement to an additional 2.5% reduction.

The key institutionalist hypothesis is that one might expect 'normative entrapment' to account for the pre-Kyoto negotiating target. Member States being prepared to make greater contributions than might be predicted on the basis of strict adherence to their national energy interests and that this is associated with socialisation into acceptance of the emerging self image of the EU as global climate leader. Difficult as it is to determine such things, some evidence exists. Austria, Denmark, Germany and the Netherlands had already committed themselves to climate targets from which it was difficult to retreat, 'They shared an interest in providing prestigious environmental leadership at the EC and global level, and would undermine their political credibility as lead countries if they lowered their targets during the negotiations, (Ringius, 1997, 38). At least part of this commitment was, however, to domestic political groups.

The clearest evidence of Union membership as an incentive to moderate negotiating position comes from the cohesion countries. Spain was in 1997-8 a 'policy taker' its political elite fully aware of the ground that had to be made up in implementing EC environmental policies. Costa (2006, 225) notes that 'even the

cruder defence of national interests …was expressed in a way that did not question EU international and internal policies' and '…the strong adhesion of Spain to a discourse that was perceived as legitimate simply because it had been endorsed by the EU' (ibid., 228). Some evidence of Spanish willingness to be part of an EU climate consensus is to be found in its willingness to accept a reduction from a 27% to a 15% increase in the final 1998 BSA agreement when other countries lightened their burdens and it was becoming clear that the target might be difficult to meet in the face of sharply rising Spanish emissions. Something similar appears to have occurred with Portugal – it too accepted a reduction in 1998 from a 40% to a 27% increase. Dessai & Michelowa (2001, 332) claim that Portuguese negotiators '…wanted to prevent international criticism and thus accepted the proposal despite lack of feedback with interest groups at home'.

Implementing Kyoto and Post 2012

As well as accepting a collective target of 5.2% reductions for the developed countries at Kyoto the EU, at first reluctantly, was forced to embrace the 'flexibility mechanisms'; Joint Implementation, the Clean Development Mechanism and above all emissions trading as means whereby Annex I Parties could achieve the emissions reductions (now relating to a six gas basket of ghgs) to which they were committed. It is one of the great ironies of recent environmental politics that, having been unable to resist emissions trading in the negotiations, the EU was soon to become its greatest international advocate. In 2005 it launched the world's first international emissions trading scheme, the ETS, which bore the burden of having to deliver over 40% of the EU's pledged Kyoto reduction commitment.[6] The Kyoto Protocol was in no sense an operational agreement and it was to take years of difficult negotiations, in which the

EU provided the key motivating force to draft acceptable all the detail required to run the mechanisms and to ensure compliance. Thus, it was only at CoP 13 held at Montreal in late 2005 that final agreement was reached upon a Kyoto Protocol that could be fully implemented by its Parties. In the meantime the EU had struggled through difficult meetings at The Hague in 2000 and then CoP 6 bis at Berlin and at Marrakesh in 2001.

The major, but predictable, setback to the prospects of Kyoto occurred in March 2001 when the incoming US administration of George W. Bush actually denounced US signature (being joined by Australia which refused to ratify) and then proceeded to go over to active opposition. Undaunted the EU took the landmark decision at the Gothenburg European Council of June 2001 to persevere with the Protocol regardless. This meant not only leading the attempt to flesh out its terms but, just as significant, marshalling EU diplomatic and economic resources to ensure entry into force. This was far from easy in the face of outright US hostility because the terms of the Protocol required ratification by 55% of signatories which must include Annex I Parties responsible for in excess of 55% of emissions. In these circumstances persuading Japan, Canada and finally Russia to ratify 'required a real demonstration of EU resolve as an actor' (Vogler & Bretherton, 2006, 3). It also heightened the sense that the EU was now a global player capable of responding to demands that US hegemony be challenged. As Environment Commissioner Wallstrom observed in 2001 'I think something has changed today in the balance of power between the US and the EU' (ENB, 2001, 1). The EU's leadership role in climate politics began to take on a normative significance well beyond the specifics of the UNFCCC and Kyoto, extending to the very identity of the Union in the international system. This chimed in with the rising public salience of climate change issues, associated not only

with mounting scientific evidence but also with events such as the European summer heatwave of 2003. Thus one might expect that 'normative entrapment' would be more than evident in the internal deliberations which were bound to follow the successful entry into force of the Protocol in February 2005.

No sooner had the Protocol entered into force than it was time to consider its successor or its development. Art 3.9 stipulated that discussions on the future post 2012 commitments of developed countries be commenced in 2005 while Article 9 refers to the broader future of the Protocol and its relation to the UNFCCC. This set a timetable for deliberation leading up to CoP 13 /MoP I scheduled to begin at the end of November 2005 in Montreal. All that had been achieved in a difficult CoP 12 at Buenos Aires in the previous year was an agreement to hold a seminar on post 2012 in Bonn in may 2005. The EU's position agreed at the March 2005 European Council reiterated the need to stabilise CO2 emissions at below 550 ppmv if dangerous climate change was to be avoided. 'Global mean surface temperature increase should not exceed 2° C above pre-industrial levels ' requiring 'significantly enhanced aggregate (greenhouse gas) reduction efforts by all economically advanced countries' with reduction pathways of the order of 15-30% by 2020'(European Council, 2005,46). The preceding Environment Council had also stipulated a 60-80% reduction by 2050 but this was too much for some member States and by the European Council meeting this target had disappeared entirely. The main problem with setting targets appeared to lie with Italy, which was obstructive during the Luxembourg presidency, wanting to propose changes on economic rather than environmental grounds and evidently concerned with its own rising emissions (Interview Council Secretariat, 2005). These problems with setting a target for post 2012 continued through to the March 2006 Environment Council (Council, 2006, ENDS, 2006). Instead of hitting its Kyoto

target, Italy increased emissions by 12%, Sweden by contrast proposed to reduce its emissions by 25% (1990 baseline) by 2020 (ENDS,2006a) and Spanish ghg emissions hit a new high, 53% above the 1990 level in 2005 (ENDS, 2006b)

The credibility of the Union's position was still critically dependent upon the fortunes of its emissions trading system, of which phase I entered into force at the beginning of 2005. This proved to be unsuccessful in terms of establishing a respectable carbon price – in May 2006 the price collapsed and at the end of 2007 it was as low as €0.02 cents (it had been as high as €30 per tonne) (Stern, 2008,22). Most Member States had protected their national interests by over-estimating their emissions in their National Allocation Plans. All of the work by the Union to ensure that Kyoto was developed into a form that would provide the basis for a working climate regime and that the Protocol was ultimately ratified and entered into force, could be put at risk if the Union were to fail to deliver its 8% reduction through the operation of the BSA which now, after 2004, ran alongside the separate Kyoto commitments of the East European accession states. The 2004-5 trends indicated in the EU's greenhouse gas inventory report to the UNFCCC Secretariat were not auspicious.(EEA 2007) Relative to the 1990 base year EU 15 (BSA) ghg emissions were in 2005 only reduced by 2%, or 86 million tonnes of CO^2 equivalent. On a linear path plotted to 2010 they were thus 4 index points above where they should have been in relation to achieving the 8% target.[7] Between 2004 and 2005 total EU 15 emissions decreased by 0.8% or 35.2 million tonnes. The situation for the entire EU 27 appears more favourable because of the large reductions obtained by ex-Comecon economies since 1990. Thus the equivalent EU 27 decrease is 7.9% (ibid: 7). The accession states are treated differently under Kyoto because they are classed as 'economies in transition' but as with the earlier cohesion countries they remain

wary of disabling their economic growth through agreeing to new emissions restrictions.

To repeat the ETS I experience in its next phase 2008-12 would do terminal damage to the Union's aspirations to future climate leadership and more specifically to the prospect of fulfilling the 8% Kyoto target – upwards of 40% of that commitment being dependent upon ETS. Thus the Commission embarked on a much more rigorous review of the National Allocation Plans, lowering many of the proposed totals and taking infringement procedures against errant Member States at the ECJ. In contrast to ETS Phase I the Commission rejected and demanded cuts in the proposed allocations of all but three of the 23 NAPs submitted by mid 2007 (See Table 3). This was far from the negotiation model employed to determine the content of the EUs bubble in 1997. Instead the Commission made a determination of Member State obligations in terms of 12 criteria which included, *inter alia*, the national 'gap to close' in relation to individual BSA targets, consistency with the terms of Kyoto and fairness in relation to the overall EU effort. Assessment used 'independently verified' and 'high quality' emissions data (Commission, 2006).

[TABLE 3]

In moves reminiscent of the 1997 burden sharing debates most of the states that had acceded in 2004 demanded increases in their allowed emissions on the grounds that they failed to take into account the economic growth that would be required to bring their GDP per capita up to average EU levels. Six of them initiated legal action against the Commission on these grounds in 2007 and Vaclav Klaus, the

Czech President, was quoted as saying that Communism had been replaced by environmentalism as 'the biggest threat to freedom, democracy, the market economy and prosperity at the beginning of the 21st century' (Cantor & Castle, 2007).

Alongside these developments the EU continued its international activities in search of a post 2012 arrangement. In 2005, the year of the UK joint presidency of the EU and G8, The Blair government pursued a well-orchestrated strategy to engage the US and major developing countries in the discussion of post 2012 without sacrificing the EU's growing commitment to Kyoto and emissions trading. The approach to the critical CoP13/MoP 1 in Montreal was very different from the its proactive stance pre-Kyoto – described as an 'open and reliant (upon the Canadian Presidency of the CoP) stance in which the October 2005 Environment Council drafted a mandate which was highly flexible in anticipation of the initiation of a process involving not only the Kyoto Parties but the US, Australians and developing countries as well (Interview Council Secretariat, 2006). In the event, the initiation of such a process was achieved at Montreal but not without some internal disagreement with Belgian, Hungarian and Dutch objections over the lack of direct linkage between protocol and convention tracks and some resentment amongst smaller Member States at being kept ill informed as to the British presidency's strategy.(ibid.)

Thus some progress had been achieved but the EU had failed to arrive at the kind of headline reduction target that had underpinned its leadership in advance of Kyoto. During 2006 the situation in the Council was greatly eased by the removal of the Berlusconi government in Italy that had openly urged the discontinuation of Kyoto after 2012 because of US opposition. Now the new Italian government was to dismiss this position as an 'anomaly' (ENDS, 2006c). Nonetheless the next CoP (14/MoP 2), held at Nairobi at the end of 2006 saw no movement on targets and timetables.

Understandably, in view of its location, its main agenda items related to developing country issues such as the regional distribution of CDM projects. Subsequently, at the December 2006 Environment Council, the Finnish presidency for the first time raised the issue of a post-2012 target for the EU. UK, Germany, Italy and Sweden supported by Environment Commissioner Dimas favoured a 30% reduction by 2020. Hungary, Slovakia Poland Spain and others opposed, arguing that the EU should wait for other Kyoto parties before making 'a hasty declaration of commitment'. Enterprise Commissioner Verheugen was also reported to be against the EU unilaterally adopting any target greater than 15% along with Internal Market Commissioner McCreevy (ENDS, 2006d).

On the other side Energy Commissioner Piebalgs reportedly backed Commissioner Dimas in arguing that a pro-active climate policy would have economic advantages for new European green industries (CICERO, 2006). The latter position seems to have been accepted within the College of Commissioners because on 10 January 2007, the Commission adopted an energy and climate package that was subsequently accepted by the Environment and European Councils of March (Commission 2008). The compromise endorsed at the March 2007 Council stated that a 30% reduction by the EU against a 1990 baseline would be the EU's contribution '…provided that other developed countries commit themselves to comparable emissions reductions and economically more advanced developing countries to contributing adequately according to their responsibilities and respective capabilities (European Council, 2007, 31). Otherwise until a 'global and comprehensive agreement for the period beyond 2012 was achieved and without prejudice to its position in international negotiations' the EU's firm independent commitment was to achieve at least a 20% reduction in ghg emissions. The long

term collective target of 60-80% reductions by 2050 by developed countries was also restored and the Council prefaced its conclusions by underlining 'the leading role of the EU in international climate protection'.

From 'Burden-Sharing' to 'Effort Sharing'

As ever, the problem was to find ways of delivering an ambitious post 2012 commitment when the somewhat modest Kyoto target was proving so difficult to achieve. Here:

> The European Council decides that a differentiated approach to the contributions of the Member States is needed reflecting fairness and transparency as well as taking into account national circumstances and relevant base years for the first commitment period of the Kyoto Protocol. It recognises that the implementation of these policies will be based on Community policies an on agreed internal-burden sharing and invites the Commission, in close cooperation with the Member States, immediately to start a technical analysis of criteria , including socio-economic parameters and other relevant comparable parameters, to form the basis for further in-depth discussion. Given the great importance of the energy intensive sector, the European Council emphasises that cost efficient measures are needed to improve both the competitiveness and the environmental impact of such European industries. (European Council 2007, 33)

One can read here a distinct discursive shift, possibly acknowledging the arguments put forward by the Stern Review (2006). No longer was the pain of internal burdens to be distributed, rather it was 'effort' that was to be shared by the Member States! The new approach, as yet un-agreed by the Council and Parliament, represented a departure from previous policy in a number of significant ways. First the entire tradable emissions sector, covered by the ETS was to be removed from the control of Member States – avoiding previous haggling over National Allocation Plans. The Commission will allocate permits and set an EU wide cap involving a 21% reduction of total ETS emissions by 2020 against a 2005 baseline (this entails an increase in the ETS share of the overall contribution to the EU target of 60% as against the current

figure of 41%). From 2012, Member States will mainly auction permits to users within their jurisdiction and, in a division reminiscent of the triptych approach there will be special treatment for sectors exposed to international competition and carbon leakage (Commission, 2008a).

Second, the remaining non-tradable emissions (agriculture, transport, building etc) were to be reduced by Member States with an aggregate 10% reduction achieved against a 2005 baseline. This is the new 'effort sharing' agreement that supersedes the existing BSA for the post 2012 period, the tradable sector now coming under the direct control of the Commission as outlined above. Once again there are echoes of the 1997 debates in that the Commission has espoused an equitable method for apportioning effort which involves division according to GDP per capita (Commission 2008b).[8]

[TABLE 4]

The Commission's new energy and climate package has already been subject to intensive Member State and industrial lobbying during its formulation. Member States, including Germany and France have expressed serious concern that the EU's current policy, in the absence of an international agreement, will fatally damage the competitiveness of steel and aluminium producers and force the flight of these industries to China and elsewhere, where emissions are not penalised (Economist 2008, 22 March, 39). There have also been calls for border taxes to compensate for international differences in the cost of emissions (European Voice, 2008, 8 May). As of mid 2008, the March 2007 commitments have held, but the pressure on them can only increase as the specifics of 'effort sharing' go through the co-decision process.[9]

The difficulties of arriving at the Copenhagen CoP with a credible position that will support the EU's claim to leadership are formidable. As one commentary notes: 'Zero-sum negotiations between member states on matters which affect the public coffers and have direct implications for economic growth tend to be acrimonious. Add in the complexity and breadth of the proposals and the use of the co-decision procedure, and the challenge becomes even greater'. However this will be modified by the fact that '… no one member state or constituency would risk standing in the way of addressing such an important issue as climate change' and the Commission's proposal are equitable. 'We should therefore expect this package, in large part to be implemented (Institute of International and European Affairs, 2008, 9-10). This reads very much as a statement of faith in the power of normative entrapment over a competitive bargain between particularistic interests.

Conclusions

EU climate change policy certainly fulfils the conditions appropriate to the operation of normative entrapment – an uncontested normative frame (involving the necessity for action by the EU) significant public attention, plus external conditions that have strengthened the relevance of the EU's original bid for international climate leadership (Thomas 2008,7) There has been a growing commitment to EU leadership and a willingness in both pre-Kyoto and post-2012 diplomacy to run ahead of other developed countries by committing to emissions reductions targets and timetables. Also, there can be few areas of the EU's external relations that have such a compelling normative content and engage such widespread parliamentary and public support. Yet climate policy also has the potential to impose very significant costs on

Member State economies and particular sectors which are heavy energy users – raising the likelihood of hard interest-based bargaining.

In 1997 the pre-existing EU climate commitment certainly played a part and the strongest evidence for normative entrapment appears in the willingness of the cohesion countries to accept cuts in their projected emissions, which did in fact prove difficult to achieve. The bargaining involved some adroit integrative re-framing followed by some hard bargaining in the Council. However, the context for reaching and sticking to an agreement was highly favourable. Two Member States were able to deliver most of the planned EU commitment with little trouble against a highly favourable baseline and the final Danish ploy of simply setting aside 5% of the target reduction pending the international negotiation was never tested. Instead an EU target of 8% rather than the 10% allowed for in the original BSA allowed for some relaxation.

The post 2012 case has some similarities with its predecessor in that the EU again attempted, with some difficulty, to devise a target and timetable commitment. On this occasion it was blocked in the Council until the change of Italian government in 2006. The emergence of the ETS and the new 'effort sharing' proposals mean that the bargaining that underpins external climate diplomacy now differ somewhat from that conducted by the Member States in 1997. Unlike then, the Commission has moved into a central allocative role under phase II of the ETS and its proposed successor. It is similarly setting the parameters for effort sharing in the non-tradable sector and foreign policy commitments on post 2012 will now depend in a fundamental way upon internal Community procedures. It is already clear that the stakes for Member States are much higher than during the approach to Kyoto and there is far less room for manoeuvre. But the normative pull of the EU's commitment

to leadership on an issue of greatly increased salience is also evident. The fate of the Commission's new 'effort sharing' proposals is far from being resolved, but despite the intensity of lobbying it is, perhaps, significant that the EU's 2007 climate targets were achieved in the first place and continue to stand.

Table 1.

EU Member State Economies and Emissions

Member State	GDP % EU	GDP per cap $	2005 emissions	BSA Target
Germany	19.5	32,684	1,001	-21%
United Kingdom	14.5	32,949	657	-12.5%
France	14.4	31,377	553	0%
Italy	12.9	30,383	582	- 6.5%
Spain	8.7	28,810	440	15%
Poland	4.0	14,609	399	(-6%)
Netherlands	4.0	33,079	212	-6%
Belgium	2.6	33,908	143	-7.5%
Austria	2.2	36,198	93	-13%
Sweden	2.1	32,548	67	4%
Greece	2.0	24,733	139	25%
Portugal	1.6	20,673	86	27%
Finland	1.5	34,162	69	0%
Czech Republic	1.5	20,539	146	(-8%)
Denmark	1.5	37,399	63	-21%
Romania	1.5	9,100	53	(-8%)
Hungary	1.4	18,992	81	(-6%**)**
Ireland	1.3	45,135	70	13%
Slovakia	0.7	18,705	49	(-8%)
Bulgaria	0.6	10.844	70	(-8%)
Slovenia	0.4	24,459	20	(-8%)
Lithuania	0.3	16,756	22	(-8%)
Luxemburg	0.2	76,025	13	-28%
Latvia	0.2	15,061	11	(-8%)
Estonia	0.2	19,243	21	(-8%)
Cyprus	0.1	23,419	10	-
Malta	0.1	21,081	03	-

Source for emissions data: 2007 EC annual greenhouse gas inventory submission to the UNFCCC secretariat. The rounded figures are for million tonnes of CO^2 equivalent , excluding LULUCF. Note that bracketed numbers in the BSA column are for new members who are not within the current BSA but do have Kyoto targets as Economies in Transition, with the exception of Cyprus and Malta. The GDP data is for 2006 and derived from Eurostat 2007.

Table 2.

	Presidency Proposal	**BSA 1997**	**BSA 1998**
Austria	-25%	-25%	-13%
Belgium	-15%	-10%	-7.5%
Denmark	-25%	-25%	-21%
Finland	-10%	0%	0%
France	- 05%	0%	0%
Germany	-30%	-25%	-21%
Greece	+05%	+30%	+25%
Ireland	+05%	+15%	+13%
Italy	-10%	-07%	-6.5%
Luxemburg	-40%	-30%	-28%
Netherlands	-10%	-10%	-06%
Portugal	+25%	+40%	+27%
Spain	+15%	+27%	+15%
Sweden	+05%	+05%	0%
UK	-20%	-10%	-12.5%
EU	-15%	-10%	-08%

Sources: Ringius (1997) p.7 & 32, Commission (1998)

Table 3

ETS Emissions and Caps

Member State	ETS I cap	2005 Emissions	ETS II caps proposed	allowed	
Austria	33.0	33.4	32.8	30.7	(93.6%)
Belgium	62.10	55.58	63.30	58.5	(92.4%)
Cyprus	5.7	5.1	7.12	5.48	(77.0%)
Czech Rep.	97.6	82.5	101.9	86.8	(85.2%)
Estonia	19.0	12.62	24.38	12.72	(52.2%)
Finland	45.5	33.1	39.6	37.6	(94.9%)
France	156.5	131.3	132.8	132.8	(100.%)
Germany	499.0	474.0	482.0	453.1	(94.0%)
Greece	74.4	71.3	75.5	69.1	(91.5%)
Hungary	31.3	26.0	30.7	26.9	(87.6%)
Ireland	22.3	22.4	22.6	22.3	(98.6%)
Italy	223.1	225.5	209.0	195.8	(93.7%)
Latvia	4.6	2.9	7.7	3.43	(44.5%)
Lithuania	12.3	6.6	16.6	8.8	(53.0%)
Luxembourg	3.4	2.6	3.95	2.5	(63.0%.)
Malta	2.9	1.98	2.96	2.1	(71.0%)
Netherlands	95.3	80.35	90.4	85.8	(94.9%)
Poland	239.1	203.1	284.6	208.5	(73.3%)
Slovakia	30.5	25.2	41.3	30.9	(74.8%)
Slovenia	8.8	8.7	8.3	8.3	(100%)
Spain	174.4	182.9	152.7	152.3	(99.7%)
Sweden	22.9	19.3	25.2	22.8	(90.5%)
UK	245.3	242.4	246.2	246.2	(100%)
TOTALS	2109.0	1947.86	2101.64	1903.43	(90.5%)

All figures are in million metric tonnes of CO^2. Source: European Commission, 2007, Press Release 'Emissions Trading: Commission adopts decision on Cyprus's national allocation plan for 2008-2012' IP/07/1131, 18/07/2007. As of August 2007 four NAPs remained unapproved, Bulgaria, Denmark, Portugal and Romania.

Table 4

Emissions Reductions in non ETS sector

	Ghg. limit 2020	2020 emissions Approx mt.	GDP /EU av.	Emissions Tonnes/cap
Belgium	-15%	71	118	13.4
Bulgaria	+20%	35	33	09
Czech	+09%	68	74	13.2
Denmark	-20%	30	122	11.4
Germany	-14%	439	110	12.1
Estonia	+11%	09	60	15.3
Ireland	-20%	38	139	17
Greece	-04%	64	84	12.6
Spain	-10%	219	98	10.2
France	-14%	354	108	09.1
Italy	-13%	305	100	10
Cyprus	-05%	05	89	13.2
Latvia	+17%	09	48	04.2
Lithuania	+15%	18	52	06.6
Luxembourg	-20%	09	251	28
Hungary	+10%	58	63	08
Malta	+05%	02	70	08.5
Netherlands	-16%	107	126	13
Austria	-16%	50	123	11.8
Poland	+14%	217	50	10.5
Portugal	+01%	48	71	08.1
Romania	+19%	98	34	07.4
Slovenia	+04%	12	82	10.2
Slovakia	+13%	23	57	09
Finland	-16%	30	111	13.2
Sweden	-17%	37	115	07.4
UK	-16%	310	117	10.9
EU 27	-10%		100	10.5

Source: Commission 2008b, Annex 3 & Institute of International and European Affairs 2008: Table 1, 4.

Notes

[1] Competence may be conferred by the treaties or follow from legislative action by the Community. It is important to understand that once achieved internally it automatically applies to external policy (under the ECJ ERTA ruling 1971). In external policy Community competence means in practice that only the Commission will speak for the EU (although it still relies on agreement by the Council or 133 Committee in the case of trade). Acting under Community competence the EU appears at its most impressive as a single actor on the world stage. The polar opposite sees the EU acting under exclusive Member State competence. Here the EU can appear at its least co-ordinated as an actor as the rotating presidency, assisted by the troika is charged with taking the lead. The problem in environmental policy is that competence is shared

[2] This appears to have changed in the period 2005- 2007 when Chirac prioritised environmental policy and led the call, which became EU policy, for the creation of a UN environmental organisation.

[3] Under the Irish presidency a workshop including the EC Ad Hoc Group on Climate, Commission officials, Dutch energy specialists and a professional facilitator met in Dublin in September 2006 and various negotiating targets were discussed without agreement (Ringius, 1997, 18-20).

[4] Analysts of the EU's climate change are indebted to the extensive research and interviewing of participants carried out by Lasse Ringius. He provides a detailed re-construction of the ad hoc group and Council meetings upon which the brief description above is based,(Ringius, 1997,15-33).

[5] It is worth mentioning that the originators of the concept of integrative bargaining, Walton & McKersie (1965) viewed bargaining as four inter-related social processes distributive and integrated bargaining, attitudinal structuring and the management of boundary role conflict. Integrative bargaining both contradicts and complements distributive bargaining. Walton & Mckersie refer to mixed bargaining where integrative bargaining increases the size of the pie to be distributed. There are some similarities to Zartmann's (1976) distinction between commitment-convergence and formula-detail bargaining.

[6] The EU is at the centre of climate politics, not just in leading discussion of the future direction of the climate regime within the framework of the UNFCCC but also through the transnational effects of its internal policies. Most prominent, of course, is the Emissions Trading Scheme (ETS) introduced in January 2005. Covering power generation in excess of 20 Megawatts this permit-based 'cap and trade' system covers some 12,000 enterprises in the Member States and the market for carbon is now functioning, albeit erratically and with no immediate effect in reducing emissions. The 2008 second phase of the ETS plans to provide an altogether more rigorous framework which will raise the carbon price and begin to exert downward pressure on CO^2 emissions. Because the ETS represents the major Community mechanism whereby Member States will meet their pre and post 2012 emissions targets, the internal

disagreements on its design and implementation cannot be separated from external policy formation. This close coupling between external and internal policies is a distinctive feature of EU climate politics which marks it out from other areas of what may broadly be conceived as EU foreign policy. ETS is a key aspect of the EU's presence and negotiating credibility because it has demonstrated the first working international emissions trading system and has been constructed to utilise the Kyoto mechanisms and to be extendable to non-EU members. Were it to prove impossible to devise a new international climate regime then a huge burden of expectation would be placed upon the ETS and its role in extending a global market for carbon. There is now active consideration of how such linkages could be achieved at a sub-federal level in the US and it is difficult to underestimate the importance of these developments.

[7] 1990 emissions represent the index point 100 with the 2010 target being 92. On a linear path 2005 emissions should be at 94 while they are in fact plotted at 98, EEA, 2007, .7, 9.

[8] ETS and Effort sharing are only part of the Commission's package which also includes proposals on carbon capture and storage, energy efficiency and targets for renewables and most controversially the use of biofuels

[9] The timetable relates to international post-2012 developments in so far as the 'Bali Roadmap' ends at the Copenhagen CoP in late 2009 where, on the basis of the Commission's proposals the EU should have been able to negotiate on the basis of internally established targets and timetables – emerging form the co-decision process in Spring 2009. In the event that the EU negotiating target is met and other Parties are willing to agree 30% reductions then the proposed EU arrangements for achieving the additional 10% are that the contributions in both ETS and non ETS sectors will divided up amongst Member States on the same basis as established in the effort sharing agreement (Commission, 2008b,5)

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