

# **Climate change and the EU: Hard problem, soft policies**

*A case study on the Europe 2020 goals*



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## Executive summary

In this dissertation, the Commission's selection process of policy instruments to tackle climate change has been reviewed, with the main focus on understanding what internal factors have influenced the Commission in this process and how this has led to the implementation of soft policy instruments. The period after the SEA (1987) until now has been reviewed in light of the historical institutionalism approach. Despite this theoretical support, an interview with the European Climate Foundation as well as desk research has been done. Finally, in order to draw a valid conclusion on the influential factors, literature as well as a case study on the Europe 2020 goals has been reviewed and compared.

The case study as well as the literature revealed that the Commission is not entirely free to decide when it comes to policy instrument selection. This is due to several institutional factors. First, the Commission is path dependent due to the climate change policy framework in which it has to operate. This framework has been established after the EU agreed with the Kyoto emission reduction targets. Furthermore, the Commission has struggled with Member States not complying to binding policies since the late 1990s. As the Commission has the responsibility to propose policies but also to ensure implementation, it has a hard time combining both responsibilities. Soft policy instruments such as Roadmaps have been implemented, to assist Member States and to ensure Member States will achieve emission reduction targets. However, the Commission is not able to propose only hard policy instruments that are rather radical, because then it will face problems with, on the one hand, Member States being opposed. On the other hand, strategic climate change policies will not match with the EU being strongly trade-biased. Overall, the Commission has found his way by implementing directives, it seems. Herewith it combines binding targets while Member States are free to decide upon how to achieve that target within a specific time period. Yet, as the case study revealed that directives are also being revised due to unintended consequences, such as the economic recession in 2008. The crisis just bit as the EU reached point of accepting that mitigating climate change was a crucial priority and one on which the EU could provide. Yet, the ultimate impact of the crisis on climate change depends on the length of the recession as well as the political responses. Moreover, the case study showed that that trade has been combined with environmental protection in the last couple of years. Environmental protection is not the starting point, as it seems less important than trade. However, the Lisbon Treaty did put environmental issues separately from other issues yet it seems the EU rather combines it.

However, neither the EU-enlargement nor the recession has caused the EU to withdraw from its responsibilities and promises to tackle climate change because Member States, EU actors and industries have been compromising. Yet, under uncertainty, it depends whether there are more worries about getting the damage or the costs wrong and regarding climate change, a marginal increase in

emissions is unlikely to make much difference in global warming, but a marginal increase in costs might have big economic impact (Helm 2009, p. 9). Although some are pointing to the fact that hard regulation is needed to make soft regulation work, Member States are standing back from far-reaching commitments as they prefer short-term and less binding agreements. In regard to the Commission's selection process, it has to take into account that the EU's economic situation should not be harmed by its proposals, it should look at the situation of Member States as they are responsible of the implementation part and it should make progress when time is ticking by, and environmental catastrophes will not wait.

To conclude, due to these constraints this dissertation clarified that path dependency determines the Commission's decision to implement soft policy instruments. In regard to the rational choice perspective it can be concluded that decisions are not made rationally, as rational choices are impeded by economic desires, priorities and unintended consequences.

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## List of abbreviations

<b>Court</b>	Court of Justice
<b>Committee ITRE</b>	European Parliament Committee on Industry, Research and Energy
<b>DG CLIMA</b>	Directorate-General for Climate Action
<b>DG ENER</b>	Directorate-General for Energy
<b>DG ENV</b>	Directorate-General for Environment
<b>DG MOVE</b>	Directorate-General for Mobility and Transport
<b>EC/Commission</b>	European Commission
<b>EP</b>	European Parliament
<b>EU</b>	European Union
<b>Fifth EAP</b>	Fifth Environmental Action Programme
<b>MEP</b>	Member of the European Parliament
<b>MS</b>	Member State
<b>NGO</b>	Non-Governmental Organization
<b>TFEU</b>	Treaty on the Functioning of the European Union
<b>UK</b>	United Kingdom
<b>UN</b>	United Nations
<b>UNFCCC</b>	United Nations Framework Convention on Climate Change
<b>US</b>	United States

## Preface

This dissertation has not been written on behalf of the European Union nor an assignment provider. It has been written because of my great interest in climate change and the EU's plans to 'solve' it. Because of this interest, I started to wonder why there are so many climate acts, climate committees and climate guidelines (just have quick look at the Commission's website, then you will understand), when time is ticking by.

Just when I thought I had found myself an interesting topic, it seemed to be too broad. Of course, there are many reasons for the EU not to implement binding targets, so my supervisor Mr. P. Pijlman helped me to narrow down the research question for this dissertation.

Therefore, I would like to thank him for his patience and his good comments. Moreover, I would like to take the opportunity to congratulate him with the arrival of his newest family member; his daughter.

*Rosalie Vrolijk*

## Introduction

Global warming has been recognized as the major environmental problem facing the globe for the upcoming years and has been defined as “a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods” (UNFCCC, 1992; Article 1.2). While it was once an issue primarily confined to scientific deliberation and reported largely by environmentalists, global climate change is now one of the most highly contentious themes of political debate. During the 1970s, scientists became increasingly concerned about the release of greenhouse gases in the atmosphere and identified links between CO<sub>2</sub> emissions and rising temperatures. This global concern led to international agreements to combat climate change. The European Union (hereafter: EU) ratified these agreements and is therefore fully committed to it. This is to say, the EU is committed to the agreements that are legally binding, such as the Kyoto Protocol. Other agreements, such as the Copenhagen Accord in 2009, have not been legally binding upon states. Yet, non-legally binding agreements on the international level, as well as European climate change policies which are not binding, led to doubts whether states are actually committed to climate change targets, especially in tough economic times. With these points in mind, this introductory chapter briefly reviews the history of climate change policies and EU decision-making on climate change law, with a primary focus on the use of certain policy instruments (i.e. legally binding and non-legally binding agreements).

### The establishment of global climate change policy

On the international level, the UN took up the issue for the first time when adopting Resolution 43/53 in 1988, which declared climate change to be a “common concern of mankind”. It became clear to world leaders that rising temperatures and increased atmospheric concentrations of CO<sub>2</sub> was due to human activities, leading up to the establishment of United Nations Framework Convention on Climate Change (UNFCCC) in 1992 in Rio de Janeiro. The Convention primarily required Annex I countries (i.e. includes 40 industrialized countries as well as the EU as non-state actor) to adopt national policies to ensure a limitation of their greenhouse gas emissions to 1990 levels. Although the EU has signed the Convention, it has no legal obligations as it was a non-legally binding document. In reaction to this non-binding agreement, the Kyoto Protocol (1997) supplemented the UNFCCC with legally-binding obligations that require industrialized countries to incrementally reduce human-induced greenhouse gas emissions to an average of 5.2% below 1990 emissions levels by 2012 (Kyoto Protocol, Art.4.1;10;12). Together, the UNFCCC and the Kyoto Protocol create the backbone of the international climate change regime (Carlarne, 2010; p.4). World leaders continued their action towards climate change in signing the Copenhagen Accord in 2009, aiming “to reduce global



emissions so as to hold the increase in global temperature below two degrees Celsius, and take action to meet this objective consistent with science and on the basis of equity.” (Copenhagen Accord, 2009). Yet, it leaves every state to set its own targets to reduce emissions by 2020. As already mentioned, this Accord was not legally binding as stated in Decision 2/CP.15 of the Accord, “the Conference of the Parties takes note of the Copenhagen Accord of 18 December 2009”. Because of its non-legally binding character the agreement has been criticized by, among others, Gordon Brown as he “called on all countries to show greater ambition as part of a campaign over the coming months to turn the agreement into a legally binding treaty” (The Guardian, 2009).

### **EU climate change policy after the Single European Act**

The evolution of environmental policy-making is, according to many authors (e.g. Zito 1999; Knill and Liefferink 2007, Lenschow 2013, p. 309), divided into three phases, which especially points to institutional and political features in this evolution. The first phase was from 1972 to 1987. Environmental policy during this period followed primary trade-related motivations and was legally based on single-market provisions in the treaties (Lenschow 2010; p. 309). The second phase (1987-1992) was initiated by the establishment of the Single European Act (SEA), as knowledge on global climate change as well as the willingness to tackle this problem had increased. Through the SEA, the European Commission (hereafter: Commission) received legal instruments and competences to establish proposals on environmental issues, because it was recognized that there was a need for a mandate to address environmental issues. Moreover, the SEA introduced Qualified Majority Voting in the Council and the European Parliament gained the right to participate in the legislative process on environmental issues under the cooperation procedure. This period also witnessed a trend to more specific and emission-oriented regulation aiming at controlling environmental pollution at the source (Johnson and Corcelle 1989; Jordan 2002a, Lenschow 2010, p.309). The SEA was followed by the third phase (1992- now); the integration of environmental protection into all areas of EU law (Maastricht Treaty, 1992), the co-decision procedure of the Parliament and the Council on environmental issues and the implementation of Qualified Majority Voting as the general rule (Amsterdam Treaty, 1997). However, an exception has been made to economy-related measures as to which a Council’s unanimity is required, such as eco-taxes, land-use and energy supply. Moreover, actions in environmental areas has been reinforced by the Lisbon Treaty in 2009. Pre-existing environmental powers remained unchanged in the Lisbon Treaty, apart from an obligation on EU institutions to promote ‘measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change’ (Benson and Adelle 2013, p. 38).

As stated above, actions to address climate change have been prioritized by the EU. One reason to put climate change high on the political agenda can be found in the EU’s changing role within climate

change policy after the Kyoto Protocol. As the US refused to sign the Kyoto Protocol due to substantive differences, “the global community’s outrage allowed the EU to move out from the shadow of US influence to take on a more meaningful role in regime-building” (Carlarne 2010, p9). From this moment on, the EU became leading actor in combating climate change. Consequently, the targets set by Kyoto have to be met in order to avoid losing face. Therefore, after the ratification of the Protocol and the non-binding goals set by the Copenhagen Accord, the EU came with the Climate and Energy Package in 2009, which is also known as the ‘Europe 20 20 20 goals’. These targets should be met by 2020 and include a 20% reduction in greenhouse gas emissions, require Member States to gain 20% of its energy from renewables and an increase of 20% energy efficiency.

Especially with the establishment of the Climate and Energy Package, the Commission “has framed the climate change problem as the next big integrative project of the Union – relevant for jobs and competitiveness and environmental protection as well as its credibility as a world partner” (Lenschow 2010, p. 313). According to Hall, policy framing can also be named as policy paradigm which he explains as “a framework of ideas and standards that specifies not only the goals of policy and kind of instruments that can be used to attain them, but also the very nature of the problems they are meant to be addressing” (Hall 1993; 279, Béland n.d.). In other words, by constituting ideas through policy framing and thus convincing the population and other policy makers, one will notice that change is necessary. Moreover, framing an issue is most likely to be successful if it can be linked with existing widely held norms or concerns (Price 2003: 597; Hawkins 2004: 780; Young 2010, p.52). The EU’s policy framework on climate change led to the empowerment of the Commission as well as a shift from horizontal to vertical governance, that both will be outlined in the following section.

### **The role of the Commission in climate change policy**

Although the Commission is the only EU actor that has the right of legislative initiative (TFEU Article 17), it also gained competences to establish legislative proposals on climate change since 1987, as has been explained. Yet, not only does it have an exclusive right to propose new environmental policy, it also has a treaty-based responsibility to ensure the implementation of environmental rules (Schön-Quinlivan 2013, p.95). Environmental legislation has to be adopted by the Council of Ministers (represents the 27 EU Member State) and the European Parliament (consists of 732 directly elected deputies from all Member States). As the Commission has been entitled to be the ‘manager’ after legislation is adopted, the climate change approach has changed from vertical governance (i.e. separating powers between the EU and Member States) to a more horizontal approach (i.e. comingling powers between EU actors). For example, to ensure the implementation of climate change policies and to achieve the Europe 2020 goals, the Commission set up the Climate Action Programme in 2010. The establishment of a special Directorate-General for Climate Change (DG CLIMA) was part of this Programme and, from that moment on, has been the key actor when it comes

to negotiating international agreements. However, the general DG for the Environment (DG ENV) was set up in 1981, fifteen years after the Commission's establishment. Despite this rather late implementation, the Commission has become a proactive 'green actor' which is respected both internally and externally (Schön-Quinlivan 2013, p.95).

Yet, designing policies in part depends upon matching the right tool to the right context (Howlett, 2011, Jordan 2013, p.312). With the Fifth Environmental Action Programme (EAP) from 1993 to 2000), the EU announced the 'new governance' approach to environmental policy, which emphasizes the advantages of using context-sensitive and flexible policy instruments. Policy instruments within the EU can be broadly divided into two categories; 'hard' law and 'soft' law. 'The rule of law' is considered as hard law, meaning that it is legally binding (i.e. decisions and regulations). Directives have also been established and "are the most common form of legislation in the field of environmental law in the context to climate change" (Carlarne 2010, p.151). Directives are considered as hard law, as they set a specific target and allow Member States to experiment on how to reach it in a given time period. An example of a climate change policy that is legally binding upon Member States is the 'Effort Sharing Decision', which is part of the Europe 2020 goals. This decision requires Member States to reduce their greenhouse gasses in sectors as agriculture and housing. On the other hand, soft law includes regulatory instruments that do not rely on binding rules, such as recommendations, roadmaps and guidelines. For example, the Commission has been managing emission reductions by issuing the "Roadmap for moving to a low-carbon economy in 2050". Advantages and disadvantages of soft policy instruments have been discussed. Bayne (2004) for instance, states that the overall advantage of soft law is that it is less demanding, more flexible and leaves room for experiments, whereas hard law is more durable, transparent, predictable. However, soft policy instruments can also be used as excuse or delaying tactic by EU states that are not ready for legally binding commitments (Bayne, 2004). Yet, soft modes have spread widely and environmental policy has been an early field for experimentation (Lenschow, 2013; p.59).

Nonetheless, it reveals that the choice for certain policy instruments is not incidental. The policy-making process has been often reviewed by scholars, although there is no single theory that determines the decision-making process on policy instruments. According to Jordan (2013), roughly three divisions can be made in theories on policy-making, namely those focusing on institutions (institutional), the approach to investigate the importance of ideas (ideational) and those that focus on different elements in one time (episodic). As already explained, framing climate change policy led to the empowerment of the Commission in proposing new legislative acts regarding climate change as well as to monitor policies. Because of the internal changes, this dissertation will mainly focus on the institutional approach. This approach includes two important aspects that might influence the

Commission in selecting policy instruments. First, the ‘path dependency’ aspect, assuming that the Commission has taken this road to policy making on climate change and has to stick with it. Second, the choice for policy instruments has also to do with the ‘preferences’ of the policy makers. This implicates that the policy instrument selection is on a rational basis. Furthermore, preferences can also be linked to path dependency; the Commission may prefer hard policy instruments, but may not be able to implement it due to institutional limits. Finally, to examine the selection process of policy instruments on climate change, a choice has been made to look upon the last twenty years; the period since the establishment of the SEA. This, because internal change have taken place (e.g. policy framing) and the Commission has gained more competences on climate change policy.

### Central question and sub-questions

As we have seen, the reason for the establishment of climate change policy is not difficult to understand, as climate change is one of the major threats to human kind. Yet, the choice and use of soft policy instruments is not nearly as well understood. Especially after the publication of the Commission’s White Paper on Governance in 2001, which allowed the EU to govern using a wider array of policy instruments, other policy instruments have been viewed and examined. Although there is extensive literature on the effectiveness of policy instruments and modes of governance within the EU in general, this dissertation will narrow the research perspective to 1) the Commission, 2) soft policy instruments in climate change policy, 3) internal factors and 4) the period after the Single European Act. This together brings us to the central question which is as follows: *“Which internal factors have influenced the Commission’s determination to implement soft policy instruments to combat climate change in the period after the Single European Act (1987 - today)?* In order to answer the central question the following sub-questions have been prepared:

1. How is EU climate change policy established by the Commission?
2. Which policy instruments have been selected by the Commission?
3. What are the limitations of the Commission in selecting policy instruments?
4. How did the relationship between the Commission and the other legislative actors (e.g. Council and EP) develop?
5. How has policy framing influenced the Commission in choosing soft policy measures?

To conclude, it has been shown which road the EU has taken to tackle climate change. Furthermore, insight into the role and competences of the Commission has been given. From this perspective, to a full understanding of the internal factors that might influence the Commission’s decision to implement soft policy instruments rather than hard law, it is necessary to understand the decision-making process on policy instruments of the Commission in general, which will be presented in the literature review. To better understand the process, European integration theories (e.g. rational choice

theory and historical institutionalism) will be reviewed and conducted. In particular, the terms ‘path dependency’ (historical institutionalism theory) and ‘preference’ (rational choice theory) will play an important role in the literature review. To support these outcomes, empirical research will be presented through a case study on the Europe 2020 goals. This case study has been selected, because it is a long-term policy program established by the Commission, consisting of hard law as well as soft policy instruments.

The next chapter, which is the literature chapter, will provide insight into the decision-making process of the Commission in general as well as the decision-making process on policy instruments. The literature review will be followed by the methodology chapter, in which one theory will be selected that will be supplemented to further findings. After explaining the research methods in the methodology chapter, a case study on the Europe 2020 goals will be presented. The case study will be followed by the discussion chapter which will combine the central question with the literature review and the case study. The last chapter will draw a conclusion on the findings that have been perceived.

## Literature review

In this chapter, a review on the literature conducted for the research of this dissertation will be presented. The existing literature on decision-making in general as well as the policy instrument selection process will be analysed by comparing views that authors have about the policy instrument selection process. Hereafter, we will move on to describe and analyse which policy instruments on climate change have been selected by the Commission prior to the SEA as well as after the SEA, as it gained more competences since 1987. Furthermore, in this chapter an attempt will be made at defining the possible influential factors in the Commission's policy instrument selection process. Note that the main focus will be on the influential factors rather than on the effectiveness of selected policy instrument in itself.

## Decision-making theories

As mentioned in the introductory chapter, no single theory on policy instrument selection exists. Therefore, general decision-making theories will be reviewed. Literature on decision-making identifies three different perspectives (i.e. ideational, institutional and episodic (Jordan et.al. 2010, p. 316). Yet, the episodic perspective will be mentioned, but not reviewed in detail. Under the ideational perspective, the rational choice theory has been grouped and the institutional perspective represents the historical institutionalism theory. Nevertheless, none of these theories are 'real' theories, as they do not contain a static framework it is not applicable to every situation. Therefore, the term 'approach' rather than 'theory' and will be used from now on.

From the ideational perspective, rational choice scholars emphasize the way in which actors pursue their individual preferences, with a particular interest in the way these preferences change as a result of institutional rules. In other words; institution's behaviour is due to individual preferences. Lina Eriksson (2011) argues that the term 'preference' has different interpretations. According to her, three types of preferences among actors in decision-making can be distinguished. The most likely kind of preference is when several alternatives have been compared and the 'best' alternative wins. Yet, alternatives are not always compared and more often a choice pattern appears, which is another type of preference. Thirdly, preferences can refer to an actor having a certain 'desire' and will solely look at the goodness of only one alternative without taking into account the outcomes. However, with regard to these desires, Jon Elster (1986) states it is not important to investigate the individual level. According to him, we are allowed to conclude that if many people do what would be rational for them to do, then most of them probably do so because it is rational (Elster 1986, Eriksson 2011, p.18).

From an institutional perspective, scholars of historical institutionalism look at the institutional behaviour over time. One of these scholars is Peter Hall (1996), and along with Taylor (1996), he distinguished four important elements of historical institutionalism that will affect the decision-making process: 1) the relationships between institutions and behaviour, 2) asymmetries of power associated with the operation and development of institutions, 3) institutional development emphasizes path dependence and unintended consequences, and 4) other kinds of factors can be contributing to political outcomes such as ideas. Thus, according to Hall and Taylor, the competences as well as the relationship and between EU actors should be investigated. Hereafter, the development of the EU should be clarified in order to examine path dependency. The term path dependency is defined by Page (2006) as ‘current and future states, actions, or decisions that depend upon the path of previous states, actions, or decisions’ (Page, 2006). Pollack (2010) defines path dependency as “early decisions that provide incentives for actors to perpetuate institutional and policy choices inherited from the past, even when the resulting outcome are manifestly inefficient” (Pollack, 2010, p. 23). Yet, all scholars are united around the idea that it sets a system on a particular path (Griffin 1993). According to Page (2006), path dependence can appear in different forms, which should be taken into account when examining decision-making from a historical institutionalism approach. The first pathway includes a lock-in, which means that there is an immediate need for intervention and the target group would be harmed if the policy will not exist anymore. A second pathway is due to positive feedback, which boosts policy makers to do the same. The third one includes increasing returns, meaning that the benefits of a policy increase over time. Last, and most common, is the self-reinforcing pathway that occurs when actors invest in their policy and want it to be sustained due to the benefits.

Hence, as Hall also mentioned that the influence of ideas can determine decisions. Historical institutionalism and the rational choice approach are linked. Other scholars agree on this, as Béland and Hacker (2004) argue that historical institutionalism “is better at specifying the opportunities and constraints that political institutions create than at explaining the policy choices that occur within this political opportunity structure” (Béland and Hacker 2004, p. 45). In other words; institutions embody the rules that political actors will follow when seeking their goals. As this more refers to the content of the policy proposal rather than solely to the institutions, rational choice and historical institutionalism can be supplementing each other, which Eriksson (2011) explains as ‘methodological individualism’. According to her, institutions exist as a result of individual choices or actions. Moreover, Eriksson refers to the relation of individuals and institutions due to the fact that institutions itself cannot make decisions, only individuals are able to do that.

However, as mentioned, the decision-making process can also be looked upon from an episodic perspective. This approach includes situations in which everything is unclear; preferences, conditions



under which actors operate, lack of time to do enough research as well as instrument's effectiveness. This approach is not rational at all, as it is 'more an unpredictable jumble of ideas, problems, solutions and decision-making priorities jockeying for attention (Kingdom 1984, Baumgartner and Jones 1993, Jordan et al. 2013, p.316). It also catches on the identification of 'wicked problems', as Rittel & Webber (1973) named it, whereof climate change is currently the most important as they state. According to them as well as Head (2008) these problems are beyond certainties of 'normal science' and are characterized by uncertainty about the problem itself, the best solution and who is in charge to solve the problem. Overall, this approach refers to randomness in decision making, as only policies are established when political and institutional opportunities permit (Jordan 2013, p. 316). Although this type of decision-making will not explicitly provide insight into the institutional factors, it is still worth mentioning as it may be helpful to understand the circumstances under which decisions are made.

Now that the general perspectives towards the decision-making process and the different schools of thought have been discussed, it can be concluded that scholars agree on the fact that institutional factors (e.g. path dependence and institutional relations) as well as ideational factors (preferences and ideas) can be influential in the policy selection process. To investigate in what way these factors may influence the Commission in deciding upon policy instruments, the mentioned factors will be closely looked upon.

### Policy instrument selection

Authors such as Jordan et. al. (2001) and Hall (1993) have examined the policy instrument selection process. According to Hall (1993) and Sabatier (1998), policy-making must be clear before looking at the policy instruments. Policy-making can be looked upon from two angles: major and minor policy change. According to Hall (1993) and Sabatier (1998), major change includes the alteration of core aspects of a policy program (e.g. goals) while minor change involves secondary decisions, such as selecting policy instruments. As we are interested in the Commission's policy selection process, we will follow the minor policy change approach. The introductory chapter already clarified the difference between hard policy instruments (i.e. binding: regulations, decisions and directives) and soft policy instruments (i.e. non-binding: recommendations, opinions and guidelines) that exist in the EU, the literature revealed that authors do not always agree on this distinction. Bemelmans-Videc et. al. (1998) for example, have made their own distinction and divided policy instruments into three groups; sticks (traditional legislation), carrots (economic instruments such as eco-taxes) and sermons (informational devices). The last two thus refer to soft policy instruments, although it is difficult to fit other instruments into this category, such as voluntary agreements and directives. Others have divided soft policy instruments into market instruments, informational devices and voluntary agreements. Yet, this still excludes, for example, directives. The most applicable distinction has been made by



Salamon (1989, p. 14), who divided policy instruments into four categories: Regulatory instruments (legally binding as targets are established and thus includes directives), market-based instruments (economic-oriented instruments such as eco-taxes), informal instruments (provide information to change certain behaviour) and finally, voluntary agreements (between states and the public). However, as the Commission places directives under the hard law instruments, they can also be considered soft instruments, as they provide only a framework that leaves room for Member States to accomplish targets in their own way and may therefore not always been categorized. To that, Hood (1983) argues that a flexible division is needed, because 'governments will not use specific policy tools in the same fashion (Hood 1983, p.106).

To identify the selection process of policy instruments, authors rely on certain models and approaches. From a rational perspective, Linder and Peters (1989) established a 'model of policy instrument choice' and according to them, four main factors affect the choice for certain policy instruments. First, they refer to the specific features of certain policy instruments, such as voluntary agreements being more in place in sectors where a not many players are involved. Second, they state that the prevailing policy style should be clear e.g. using statist instruments rather than softer ones. Moreover, in this stage one should examine the nature of the society it should fit to. Third, the organizational structure in which actors are operating should be examined. Fourth, one should determine the problem framework, such as the timing. However, Jordan (2001) looks upon policy selection from a rational as well as historical institutionalism approach which can be linked to the general decision-making process (i.e. ideational, institutional and episodic) although he defines it as the dominance of ideas, settings and chaos.

In regard to Jordan's combined approach, a few assumptions on the dominance of ideas in the Commission's policy selection process can be identified among authors. First, starting with the dominance of ideas (and thus from a rational choice perspective ), Howlett and Ramesh (1993) state that instrument selection is only an aspect of the whole policy process where social learning is a motive force. Hall (1993) focusses on the change of ideas according to Howlett and Ramesh (1993). Following that, Jordan argues that changing ideas occur when actors face new problems and anomalous events that challenge their current policy paradigms (Jordan, 2001, p. 10). Moreover, Sabatier (1998) mentioned different coalitions of actors, armed with distinct sets of beliefs, compete to become the dominant coalition in the policy sectors, or 'subsystem' (Sabatier 1998) According to Jordan (2001) this institutional factor emphasizes that a group of actors is seeking to push their views or ideas policy instruments and that may lead to a conflict with other EU priorities such as economic growth (Jordan et. al. 2001).

Second, as Jordan mentioned, institutional settings might also be dominating the selection process. On the basis of this perspective, ‘actors will select instruments to what is appropriate in the institutional context e.g. political acceptable’ (Jordan et.al. 2001, p. 11). Moreover, he argues that actors are only willing to change their policy process and selection of instruments when it faces a policy failure (e.g. ecological catastrophe). Linking this to the path dependency, it seems that under these circumstances, other decisions will be taken but rather in a way that it maintains existing arrangements. Moreover, Jordan argues that only policy instruments that fit the organizational structure rather than challenge the structure will be adopted. Page (1997) and Bulmer and Padgett (2000) argue that the EU operates at multiple levels where various actors are active in the same field and, as a consequence, this opens it up for further agenda setting by a wide range of actors and adds even more layers of actions with some role in shaping the policy in the decisional and implementation stage (Bulmer and Padgett 2000, Jordan et. al. 2001, p. 12). To this, Page (1997) draws the example of that it used to be said that the Commission’s services were dominated by lawyers and generalists, whereas economics (who might have been expected to advocate economic instruments such as taxes) were under-represented (Page 1997, Jordan et. al. 2013, p. 316). Thus, in regard to the dominance of settings, authors argue that there is a wide range of actors and rules involved in the selection process and that all actors have different views and interests.

Third and last, the dominance of chaos in the selection process refers to the selection process while, as the episodic approach explained, everything is unstable. This can be linked to rational choice policy making as therewith preferences are not clear, and even when they are, they will change rapidly. Furthermore, various actors will push their views and to that, from an institutional perspective, Jordan et. al. (2001) adds that this fluidity does exist in the EU where it is difficult for actors to be able to track and anticipate the behaviour of other actors (Jordan 2001, p. 13). Thus, the chaos dominant approach would expect the Commission, with its fairly central location in the policy process and ability to view the larger picture to push for particular initiatives, despite of the many actors that are involved. (Héritier 1995, Jordan et. al. 2001, p. 13).

### **Selected policy instruments**

In addition to the different perceptions and assumptions on decision-making, and especially policy instrument selection that can be found in the existing literature, authors have reviewed the policy instruments that have been implemented on climate change prior and after the SEA to understand what determined their decisions .

From a rational choice perspective, authors such as Lenschow (2013) and Jordan (2001) emphasized that the policy instruments, that have been selected prior to the SEA, were strongly trade-related. An example given by Scharpf is the number of environmental product standards that grew because a

functioning single market requires national standards to be harmonized. According to the market-bias the EU had, mostly market-based instruments have been introduced. However, institutional constraints reinforced this ideational bias (Jordan et. al. 2001, p.14). Majone (1991), and also Jordan (2001) and Weale (1996) explain that the Commission was ‘constrained in proposing new initiatives before the SEA’ (Weale, 1996). Weale explains that the Commission’s role was solely to improve existing policies rather than implement new ones. Liberatore (1991) states that especially the Environmental Action Programmes and the justification for much of the pre-1987 legislation emphasized the need to avoid distortions in competition in order to realize harmonization (Liberatore 1991; Jordan 1999; Zito 1999; Jordan 2001, p. 7). To ensure harmonization, Jordan (2001) as well as Carlarne (2010) state that this period knew an increase in directives that ‘combine environmental protection with economic growth policies, seeking to build consensus and giving away responsibility’ (Jordan et.al. 2001, p.7). Moreover, Jordan states that directives were likely to meet less resistance from national governments, because their acceptance was easier and could start a process of gradual commitment towards more specific measures (Jordan 2010, p. 15). From a rational perspective, preference for less hierarchal instruments such as directives existed even twenty years ago due the need for harmonization. The institutional factors may refer to Jordan’s (2001) view that only policy instruments that fit the structure will be chosen.

After the SEA, the main reason to adopt soft policy instruments or market-related instruments was because the EU ‘faced economic difficulties in the 90s that assured economic priorities instead of environmental protection’ (Weale 1996). Jordan (2013) stressed that, although policies basically remained regulatory in nature in 1990s, the Commission also started to implement instruments such as informational measures that involved other actors in a non-conflictual manner, again because of the Commission’s responsibility to ensure harmonization. The introduction of non-regulatory instruments through the Fifth EAP in 1993 contributed to the enlargement of soft policy instrument implementation and as Jordan argues, these were mainly to lower the cost of regulation on business and thus trade-biased. He states that in this setting, soft policy instruments could be implemented on a ground of being subsidiarity friendly. However, this change from hard to soft policy instruments mostly occurred since 1992. Jordan (2001) argues from an episodic perspective, that Member States started to get concerned about the costs of all regulations the EU introduced, so they therefore ranked issues to their own importance. According to Snyder (2005) soft policy instruments will be preferable under conditions of uncertainty, complexity and heterogeneity of regulatory problems, as it offers clear benefits over legally binding regulation that arises from treaties, regulations and directives. (Snyder 2005; Trubek & Trubek 2002). Another upcoming instrument since the Fifth EAP was, according to Weale (1996), the voluntary agreement, as the Commission announced its aim of promoting and facilitating the use of ‘effective and acceptable’ environmental agreements as a means of

supplementing the more traditional command and control regulation (CEC 1996; 5, Jordan 2001, p. 20). However, the lack of consultation with most actors, including the Parliament, has made the implementation of the instrument quite controversial and these doubts reflect the small number of voluntary agreements nowadays (Jordan et. al. 2001, p. 21). A well-known example of a failing voluntary agreement is the agreement with the automobile industry in 1999. Here, the automobile industry was not in favour of binding targets and pushed for a voluntary agreement. Moreover, soft policy instruments implemented in the late 1990s offered means to solve EU's mounting implementation problems, which by then had started to generate intense friction between some Member States and the EU institutions (Jordan et. al. 2013, p. 312).

The appearance of more soft policy instruments twenty years ago are reflected in the innovation of climate change policy nowadays. As climate change emerged as a strong political priority after Kyoto, the EU 'reshaped' policy-making from vertical to horizontal governance (Lenschow, 2013 p. 312) as the EU aimed to meet the Kyoto targets and it saddled itself with the leading role in tackling climate change. Reshaping not only meant priority setting, it also included ensuring policy implementation, as this became a major problem. The Kyoto targets had to be met through the Emission Trade Scheme (ETS), which is 'the central instrument for implementing the EU's Kyoto obligations' (Buchan 2010, p. 374). The Scheme was implemented to allow trading of greenhouse gasses within the EU due to, according to Jordan (2013), a threat to energy security. Since climate change policy changed to horizontal policy making, Lenschow (2013), among others, identified the problem being framed as 'a project' that should ensure jobs, competitiveness and environmental protection which was all part of the Europe 2020 strategy. Concretely, the Union has set five ambitious objectives - on employment, innovation, education, social inclusion and climate/energy - to be reached by 2020 (Barosso, n.d.). Along with the policy framework, a special DG CLIMA was entitled to propose legislation for the 'Europe 2020 goals'. Yet, policy framing can have down-sides to the policy instrument selection which has been stressed by several authors such as Versluis et. al. (2011) and Jordan (2001).

According to Versluis, policy framing includes 'policy windows', meaning that it opens windows and moves issues to the top of the agenda, but only lasts when enough attention has been made. Moreover, Versluis (2011) argues that issues are framed in such a way that it appeals to the venue (the institution that has to take care of the issue) that it is targeted (Versluis et. al. 2011, p. 121). This means that if the climate change issue was framed in a way that it was mostly an industry-problem, then the Commission's DG ITRE (Industry, Research and Energy) should take care of climate change proposals. In this context, the frame determines the venue according to Versluis (2011) and so did the framework of combatting climate change. Overall, it seems that the Commission has limited choice in their fight against climate change; institutional factors seem to influence the Commission's choice and preferences.

### The Commission's limitations in the selection process

Although policy framing seems to have influence on the Commission's decisions the last couple of years, literature also revealed constraints that the Commission faces for a longer period of time. These constraints have mainly to do with institutional settings which can be linked to the elements of historical institutionalism mentioned by Hall (1993): 'asymmetries of power associated with the operation and development of institutions' and 'institutional development that emphasizes path dependence and unintended consequences'.

From an historical institutionalism view, literature investigates the division of competences that within the EU that might cause the Commission to implement other instruments that initially preferred. Although the Lisbon Treaty introduced a change to all EU actor's competences as they were split into 'exclusive', 'shared' and 'supporting' categories (with environmental issues being grouped under the shared competence) the Commission now shares competence with Member States. However, as competences are shared, Member States also have a great influence in policy making. For example, Member States have been enabled to object when the Commission does not comply with the subsidiary principle through a reasoned opinion (also known as the 'yellow card'). This principle was initially introduced by the SEA, meaning that 'decisions should be taken at the lowest effective or efficient level' (Benson and Adelle 2013, p. 38). Nonetheless, although the Commission shares competences, it has been labelled as an entrepreneur and ambitious actor by authors such as Jordan. On the one hand, the Commission itself was 'seeking to expand the influence of the EU and the Commission by looking for opportunities to suggest new policy initiatives and to expand into new areas' (Cram 1997, Jordan 1999, Radaelli 2000, Jordan 2001). And even on the internal level, Benson and Adelle (2013) mention the Commission's ambitious attitude, as it used the Lisbon Treaty to argue that it should be the Commission representing the EU at international environmental negotiations rather than the Council. Yet, on the other hand, as Emmanuelle Schon-Quinlivan (2013) argues, the Commission juggles between two main roles: first as a policy entrepreneur that plays a significant part in policy making and, second, as a policy manager – a role which has increased with the gradual expansion in the EU's fields of competences (Emmanuelle Schon-Quinlivan 2013, p. 101). This implicates that powers are unequally divided, according to Hall's approach. According to Jordan and Lenschow, the Commission has faced policy implementation as a real burden. Lenschow (2013) states that environmental policy is the largest policy group, among others such as industry and consumer affairs, at the level of infringement cases against Member States. With this he refers to the Commission's core instrument under the implementation responsibility, namely the 'infringement procedure'. This procedure ensures the Commission with the competence to draw a reasoned opinion when a country has not complied with the implementation of the agreements into national law, after the Commission first had informal talks. Yet, Jordan (1999) mentioned that the 'complexity of joint

action' is high and the Commission's enforcement powers are slow and indirect (Jordan, 1999). To this, Wilkinson (1994) adds that the Commission is almost entirely dependent upon Member States reporting back on what they actually do, or on whatever national environmental groups and private actors choose to submit via the formal complaints procedure. In 2008, the Commission stated in its communication on implementing environmental law that it seeks to downplay infringements through the Court. Which means it will be more focused on horizontal measures with the introduction of the more 'rational handling of complaints and infringements', prioritizing structural and costly problems as well as intensifying proactive measures by offering guidelines, interpretive documents, and training initiatives to increase implementation capacities on the ground (Lenschow 2013, p. 322).

According to Scharpf (2006) and Jordan (1999) the implementation problem has not only influenced the Commission's selection process, it has also constrained the Commission in further policy selection. First, from a rational perspective, the Commission will not put pressure on the same Member States all the time as 'it might endanger the political support for the wider integration process (Jordan, 1999). The same is argued by Scharpf (2006), as he explains that the greater response to implementation by the Commission can eventually be deeply at odds with the 27 Member States, as these dominate the EU and all have their own political culture, traditions, habits and most of all, environmental circumstances. Thus, from a rational choice perspective, it can be argued that the Commission is more in favor of open-ended policy instruments, because then there is no need to check upon states, as it explained in its communication on implementation in 2008. However, as Kellow and Zito (2002) also refer to a rational choice of the Commission, as they argue that the implementation issue is part of the political game-play between the Commission and Member States. They explain this game as supranational actors proposing ambitious legislation to which Member States will react negative and to which the supranational actor will respond by pushing for greater implementation.

From an episodic perspective, the implementation problem has often been linked to the EU expansion in 2004 and, as Jordan (1999) and Lenschow (2013) highlight, the economic recession has been another reason for Member States to withhold from implementation nowadays. And, as the Commission has no 'real' powers as it 'has had up to no power to raise revenue on its own; it is not based on any electoral or Parliamentary majority and, above all, lacks authority to make decisions on its own (Coombes, 1970, p. 101), it relies therefore on the support of Member States as well as the Parliament and Council. According to Tallberg (2007), the Commission is constrained in that it needs external support from other EU institutional actors – either from influential member states, the Parliament, or the Court – if the agenda it is promoting is to have a realistic chance of adoption" (Tallberg 2007: 204-5; Young et. al. 2010, p. 53). In regard to the implementation problem and the policy framework of climate change Jordan stresses that the major factor that contributed to it, is the



unevenly share of power and responsibilities within the EU. Here, he refers to the Commission being entitled to propose climate change policy as well as to manage the implementation of it. Moreover, Jordan states that framing seeks to define the agenda for member states (Jordan et. al. 2001) which can bring the Commission in a difficult situation opposed to Member States.

### Inter-institutional and Member State relations

As mentioned above, the Commission relies on Member States as well as other EU actors in its policy selection process due to a change in competences and the implementation problems that occur and as Lenschow (2013) explains; regardless of the type of instrument that has been selected, it usually requires public administrations to implement it on the ground (Lenschow 2013, p. 64), which means that the Commission depends on national administrative structures regarding policy implementation. This can be linked to the third element of historical institutionalism, the 'relationships between institutions and behaviour'. Overall, the relationship between the Commission, Council and the Parliament has often been described in the literature as 'complex'. According to Carlarne (2010), this complexity does not correlate with better decision-making: it produces a multi-layered and intricate system of governance (Carlarne 2010, p. 147) and is further complicated by the relationship between the EU institutions and the Member States.

Beginning with the Commission's relation with Member States, we have already seen that competences of both actors have faced an increase in powers. Yet, before this increase, Lenschow states that the ambitious attitude as supranational actor tackling climate change in the 1970s by proposing hard policy instruments 'put the Commission almost entirely in natural opposition to many Member States and the Council' (Lenschow 2013, p. 313). Carlarne mentioned the example of harmonization, when Member States had the opinion that the EU should have less rather than more competences. However, Lenschow stresses that their relation was getting better as the Commission regularly responded to national demands due to the fact it relied on national expertise and their willingness to implement its policies. H  ritier's study on the adoption of regulations and directives regarding the environment in general adds that that green 'leaders' are able to influence the agenda and the regulatory style, thus in a positive way. To this, Lenschow stresses Germany as an example, as this country influenced the agenda-setting on environmental issues in the EU whereas 'the emergence of procedural standards in the EU has been credited to the UK's waking up to EU policy making (Knill 1995; H  ritier et al. 1996; Jordan 2002; Lenschow 2013, p. 58). He also explains that, for instance voluntary agreements, rely on responsiveness of national actors as well as the environmental situation, as it is not possible 'to build such societal structures from scratch' (Borzel 2000, Lenschow 2013, p. 60) which the Commission should take into account. However, regarding softening policy instruments, Mayntz and Scharpf (1995) suggest that hierarchy and regulatory instruments are needed

to keep actors committed (Mayntz and Scharpf 1995, Lenschow 2013, p.60). On the contrary, Lenschow also states that legally binding obligations formulated on the EU level may not fit into national level national legal and administrative systems and may overtax local capacities or willingness to adapt (Knill and Lenschow 1998; 200; Börzel 2000; Lenschow 2013, p. 59). Overall, instances of shared competence, which are at the same time both horizontal and sectorial, have proven just how much the institutions depend on each other under the Treaty of Lisbon rules (Braun 2011, p. 10).

Furthermore, regarding the Commission's relation with other EU actors, the literature explicitly mentioned the Parliament's increased competences. Although the Parliament has a reputation of being the greenest EU institution due to their highly active 'Greens' party, as Jordan and Adelle (2013) say, it now has even more power on climate change policy as has co-decision power with the Council and has been empowered regarding the budget. The latter means that the Commission proposes budget plans, but the Parliament has power to either reject or approve the proposal after the Council amended it. However, this has not been the case so far. The co-decision power also improved the relation between the Parliament and the Council according to Wurzel (2013). At first, the Parliament was not taken seriously due to its few competences but co-decision has changed that. In regard to the Commission's relation with the Council, Wurzel mentioned the Council's importance in the selection process of policy instruments and policy-making in general as it has, and although the Council has been often been mentioned as the less greenest EU actor, a major influence by bringing 27 heads of governments together and thus is directly in contact with Member States. The Council can even dampen the enthusiasm of ministers or block certain initiatives all together (Wurzel 2013, p. 89). An example of this is the Commission's proposal for a common carbon dioxide/energy tax that was never adopted because it was vetoed (in the Council) by the UK on sovereignty grounds (Zito 2000; McCormick 2001, 34-35; Jordan et al. 2010; Wurzel and Connelly 2010; Wurzel 2013, p. 81).

## Conclusion

In conclusion, the literature chapter revealed that mostly institutional settings are dominant in the decision-making process. Moreover, the Commission seems to rely on Member States (due to the implementation problem and share of competences) as well as the Parliament and Council. These elements suit the historical institutionalism approach best and will therefore be used to supplement further findings.



## Methodology

In this section, research methods that have been applied will be presented to answer the central question *“Which internal factors have influenced the Commission’s determination to implement soft policy instruments to combat climate change in the period after the Single European Act (1987 - today)?*. The conducted research method consisted out of a case study which allowed for the various reasons presented in the literature review to be tested, as well as secondary research which included the review on other authors’ studies. The aims and nature of the research will be outlined as well as the selected theory to supplement the findings. Furthermore, an explanation will be given for choosing this particular approach over others. In addition, descriptive research has been done in order to examine how the policy instrument selection of soft instruments has evolved over the years. Finally, desk research has been conducted to gain sufficient background information and more insight into existing literature. In regard to the background information, an interview with the European Climate Foundation (ECF) has taken place to get a better understanding of the subject in general.

## Decision-making theories

From the three decision-making approaches outlined in the literature review, the historical institutionalism approach has been selected to support further investigation on the policy instrument selection process. The approach has been chosen to be the main guidance and it will be reinforced by perceptions of the rational choice theory. This approach has been selected, because it will be most relevant to answer the central question, as literature revealed that the Commission’s policy selection process is mainly influenced by institutional factors that affected the Commission’s preferences. Moreover, it has been clarified that historical institutionalism and the rational choice approach are more or less mingled, as historical institutionalism can only define institutional constraints rather than an explanation on the actual choice that will be made. The episodic approach will only provide an explanation on the external rather than internal influences and therefore is not relevant to function as supplementing theory. However, it is worth emphasizing that this dissertation does not see the three perspectives as being mutual exclusive as all three might be operative in a different context.

## Case study

In order to identify whether previous arguments of authors are valid in the case of policy selection on climate change, empirical work is needed. As mentioned, a case study on the Europe 2020 goals will be presented and supplemented by the historical institutionalism approach as well as by the rational choice approach. The use of this case study seemed appropriate and advantageous because, as outlined in the literature review, the Europe 2020 goals are part of an overall, horizontal policy that includes both hard and soft policy instruments. Because of its overarching character, it therefore seemed more useful to include one single case study and as the Package consists of small cases, these

will be reviewed and compared within this single case study. Furthermore, the choice for one overarching climate change package is linked to the central question, as it will be reviewed in what way and by what means the Commission is influenced in proposing climate change policies under this overarching package. Finally, this case has been selected instead of old policies, because it demonstrates the current state of policy selection (i.e. after climate change has been framed) by the Commission. The case is it is relatively 'new' and therefore not outdated.

### Secondary research

A secondary research has been applied in this dissertation, which involves the examination of other researcher's studies on the decision-making process in general as well as on the policy instrument selection process. It also includes the use of secondary sources such as books, articles and specific reports from the Commission as well as reports from EU-related institutions such as the European Climate Foundation. Secondary research is conducted in combination with primary research. This means that the policy selection process is also studied through first hand observations and reports, such as analysing literary texts and literature on the rational choice and historical institutionalism approach in general.

### Desk research

A substantial part of the research has been done through desk research. This means papers and books as well as official legislation and journals of the European Union that have been conducted. Desk research as methodology type has been chosen in order to gain sufficient background information on this matter. Furthermore, official online documents of the EU (e.g. working papers and legislative acts) have been conducted through desk research. With regard to the central question, desk research has been used to get insight in what information is already available in order to determine how this dissertation could add a new aspect to the discussion and to highlight current struggles the Commission faces in climate change policy making.

### Interview

Finally, the European Climate Foundation (ECF) has been interviewed (see Appendix 1). Although desk-research already provided insight into existing climate change policies and frameworks as well as the actors that are in charge of the actual policy-making, the interview supplemented this information. Consequently, a better understanding of EU climate change policy was gained. Furthermore, the Europe 2020 goals and its policy instruments, their effectiveness as well as possible general influences on policy making have come across, to which later in-depth research has been done. The ECF has been selected, because of its contribution to several soft policy instruments, such as the 'Roadmap 2050 Practical guide to a prosperous low-carbon Europe' report and the 'Power perspectives 2030: on the road to a decarbonized power-sector' report.

## Case study: Europe 2020 goals

This section examines the Commission's policy selection process regarding the Europe 2020 goals. This 'Package' (as it hereafter will be called) is a long-term policy program consisting of binding as well as non-binding policy instruments. The case will analyse and compare these different policy instruments in order to draw a valid conclusion on the Commission's reasons to select policy instruments. The case will be presented in light of historical institutionalism elements that may have been an influential factor, which includes: the influence of EU actors and Member States, competences, unintended consequences and ideas. Following this line, an introduction on the Europe 2020 goals as well as the selected policy instruments will be presented. Thereafter, the establishment of the policy instruments will be examined, followed by its future prospects.

### From strategy towards goals

In response to the targets set by the Kyoto Protocol and after the expiring date of the Lisbon Strategy, which was a strategy for 'sustainable economic growth' from 2000 to 2010, the EU launched the Europe 2020 strategy in 2008. The strategy contains five objectives on the matters of education, employment, innovation, social inclusion and climate/energy for the period from 2008 to 2020. In addition to the climate and energy objective, the Commission set up the Europe 2020 goals to achieve the following:

- 20% cut in greenhouse gas emissions (on 1990 levels);
- 20% increase in use of renewables in the overall EU energy mix, including 10% vehicle biofuels (on 1990 levels);
- reduce primary energy use by improving efficiency by 20% (on 1990 levels).

In order to achieve this, the Commission proposed and implemented the ETS scheme Directive (reform of the previous scheme), the Effort Sharing Decision, the Carbon Capture and Storage Directive and the Renewable Energy Directive.

### ETS Directive and the Effort Sharing Decision

Firstly, the most important policy instrument will be explained; the Emission Trade Scheme. The directive requires Member State to set a cap on the amount of greenhouse gases to be emitted annually by industries such as the power sector, chemicals cement and oil refineries. The Effort Sharing Decision supplements the ETS scheme, although under this Decision, Member States have to reduce greenhouse gasses in other sectors too (e.g. agriculture, transport and housing). The scheme's history is often discussed. This, because the EU has long made objections against the use of emission-trading in market-based climate policy, whereas economists pleaded long in favour of a scheme (Woerdman

2004, p.). However, as Woerdman explains, during the Kyoto negotiations the EU had to accept the inclusion of emission trading in the Protocol, and so the ETS was born in 2005 which had an expiring date of 2007. During this initial phase, only major fuel consuming installations were covered by the scheme, such as power plants, oil refineries and cement, glass, bricks and paper producing factories (European Commission, 2009). According to the Commission, this has been the 'pilot phase'. During the second phase (2008-2012), also aviation emissions were included which implied that all airlines needed CO<sub>2</sub> emission allowances when using the air space. (European Commission, 2009, p.8). Finally, the third phase lasts from 2012 to 2020 and aims to better harmonize the rules of the scheme as it sets one single cap instead of 27 separate caps. In order for the EU ETS to be effective, companies have to purchase pollution permits. This process is also known as auctioning. Although ETS had a difficult start, the Commission implemented the Scheme as a long-term project, especially to ensure confidence to investors, meaning it will not end in 2020. This implicates that the programme not only provide further emission reduction plans, it also gives the basis for an open-ended carbon programme.

#### Renewable Energy Directive

The Renewable Energy Directive has been established in response to the Renewable Energy Roadmap in 2007. This Roadmap listed the long history of initiatives on renewables (Helm 2009, p. 4) and included a series of proposed measures for this area, because earlier targets, such as the EU's 1997 target generating 12% gross domestic energy consumption from renewable sources by 2010, have made little initial progress. According to the Council of Renewable Energy "energy is the fuel of Europe's economic engine, by switching from fossil fuel, greenhouse gas intensive sources of energy to renewable sources of energy, Europe is able to fully grasp its sustainable potential - in economic, ecologic and social terms" (Council of Renewable Energy, n.d.). The Commission recognized that without binding national implementation measures, the EU would struggle to meet the goals (Carlarne 2010, p. 169). However, because Member States are in different stages in their use of wind energy, solar power, hydroelectric power and other green sources, the Directive implements national targets that vary across the EU, such as 49% target in Sweden and 10% to Malta (Carlarne 2010, p. 169). The Commission's estimation of the Renewable Energy Directive outcomes is that 20% of the EU's energy supplied from renewable sources by 2020 will create around 417 000 additional jobs (Annual Report Commission, n.d., p.1).

#### Carbon Capture and Storage Directive

The technical support for both the previous mentioned policies has been ensured by the Carbon Capture and Storage Directive, the 'geological storage of carbon dioxide'. The Directive can be seen as bridging technology that allows for a smooth transition away from the current carbon focus of electricity generation towards a more sustainable future (Praetorius and Schumacher 2008, p. 32).

### Beyond 2020

In regard to this Package, the Commission itself states that it ‘is to be understood amid a wider set of measures’ (White Case of the Commission 2008, p. 2). This may not refer to the variation of policy instruments, as it has a long history of implementing directives and informational measures. Yet, it might refer to the wide scope of the Package. The overall aim is namely to “make the European economy a model for sustainable development in the 21st century” and “transform Europe into a low-carbon, high energy efficiency economy” in such a way that requires “major political, social and economic effort” (Commission 2008 p. 2-3). Another advantage of the Package is, regarding economic growth, that “tackling the climate and energy challenge contributes to the creation of jobs, the generation of “green” growth and a strengthening of Europe's competitiveness” (Commission, 2012). Furthermore, the 20 per cent target is not just internally focused, it is designed with the explicit aim of facilitating an international post-Kyoto policy framework (Helm 2009, p. 7), with the EU’s underlying thought of getting the other large emitters (China and the US) to join them.

An integrated energy and climate policy signals that the Package and its policies will not expire after 2020, and that seems to be true. With the goal is to move towards a climate-friendly economy the EU steers to a fundamental transformation in the coming decades and moreover, to change how the EU produces its energy and how its economy functions. This has been stated by the Commissioner for Energy as follows: “We need to intensify our efforts beyond 2020 with a new policy framework, including milestones for 2030” (Günther Hermann Oettinger, European Commissioner for Energy, n.d.). The goals for 2030 are supplemented by goals for 2050: achieving 80% emission reduction below 1990 levels by 2050.

### Roadmaps

In addition to these previously mentioned Directives and Decision, the Commission decided to guide Member States through the emission reduction process by providing them Roadmaps. Although Roadmaps are not legally-binding, the Commission has been required to provide Member States with such guidelines by the Parliament and the Council through the Directive 2003/87/EC. This Directive states that ‘The Commission is required to adopt guidelines for the monitoring and reporting of greenhouse gas emissions under the ETS’. The Commission is thus obligated to ensure that Member States receive guidelines regarding the ETS. Guidelines are needed, as they are binding pursuant the overarching ETS, thus, the Commission relies on guidelines in this context (Carlarne 2010, p. 152). An example of such a supplementing report is the ‘Emission Cap Report’, which was established in 2012 and informs Member States about the current situation and what has still to be done in order to meet the targets. Furthermore, after the establishment of the Package and in regard to the 2030 and 2050 targets, the Commission provided Member States with the ‘Power perspectives 2030: On the

road to a decarbonized power sector’ and ‘Roadmap 2050: A practical guide to a prosperous, low-carbon Europe’.

### Unintended consequences

The previous mentioned policies have been proposed in March 2007 and went into force in 2009. In the intervening period, the EU had to deal with an economic crisis (2007/2008) and the subsequent economic recession. The timing of the financial crisis has been particularly inconvenient in regards to the EU’s climate change and energy agendas. Overall, due to the crisis the energy and industry ministers of Member States wanted to temper the climate change enthusiasm of their environment ministerial colleagues with realism about the competitive effects of making European industry pay for stringent carbon controls (Buchan 2010, p. 375).

### Member States

Despite the unintended consequence that came across during the negotiation process of the Package, two other important elements regarding the Member States’ support for the climate change goals need to be clarified, starting with the EU-enlargement. The jump from 15 Member States in 2004 to 27 in 2007, with all having different backgrounds, seemed to be a struggle for the EU in policy-making as well as policy instrument selection. Poland, for example, joined the EU in 2002. Whereas Polish law and policy have undergone significant Europeanization over the past decade, the country is hampered by problems of over-centralization, competing competencies, corruption, regulatory capture, lack of public participation and transparency, cultural resistance to change, an anaemic civil society and low levels of social capital (Carlarne 2010, p. 226). This reflects its capability to combat climate change. Poland is also the EU’s largest coal producer and has a vested interest in ensuring healthy markets for coal consumption (Carlarne 2010, p. 227). The countries that depend on coal and steel have been less enthusiastic in rushing towards environmental measures compared to wealthy countries such as Germany.

Second, as the Commission has future plans up to 2050, the Lisbon Treaty will have influence on future climate change policies regarding the 2030 or 2050 plans. As shortly explained in the introductory chapter, the Lisbon Treaty has made changes in the decision-making process and went into force during the same period as the Package namely 2009. The Package includes energy-related policies, Member States have more to say when it comes to environmental policies. In the Lisbon Treaty, Article 194 of the TFEU states that the co-decision procedure should be used when policy making on energy issues. Yet, policies related to energy-supply will be decided through the unanimity procedure, which thus gives Member States, including the East-European countries that just entered the EU, room to veto the plans.

### Tensions during the negotiation period

In regard to both the EU-enlargement and the economic downturn, Member States such as Poland, stressed that they were not in favor of these new targets. Although, the Polish Environment Minister Andrzej Kraszewski said he was generally in favor of ambitious reduction quotas, but he also said that he believes that Poland "needs more time than others" to meet these ambitious quotas (EurActiv, 2010). Kraszewski was particularly critical about the Package for proposing a possible increase in emission cuts to 30%. Such an option should only be considered if similar reduction plans are adopted by the biggest emitters of greenhouse gases, like the US and China, otherwise the European economy will become less and less competitive, he warned (EurActiv 2010). Eventually, Poland had an alignment with Italy in threatening to veto the Package. Citing recession and the costly business of combatting climate change, Italy's Prime Minister Silvio Berlusconi said that Italy's and Poland's "Business are in absolutely no position at the moment to absorb the costs of the regulations that have been proposed" as well as "We do not believe that the time has come to play Don Quixote, to go forth alone when the big CO<sub>2</sub> emitters like the US and China are absolutely opposed to joining our drive. In this time of crisis, we need a bit of flexibility" (Carlarne 2010, 230).

However, Poland and Italy were joined in opposition to the Package by Latvia, Bulgaria, Estonia, Hungary, Slovakia, Lithuania and Romania. For Bulgaria, it is a slightly different story. This country is the poorest in the EU and favoring nuclear energy, but the EU does not consider nuclear energy as renewable source. Germany, a country that abandoned nuclear energy, aims at reaching 40% emission reduction by 2020 instead of 20%. Yet, the German politician Brüderle is warning of a one-sided rise in CO<sub>2</sub> reductions; isolated European climate protection requirements would result in additional costs for industry, which would thus relocate to countries with less strict requirements. (EurActiv 2010).

### Seeking consensus

The fact that not only East-European countries were opposed to the established policies but the 'green pioneers' as well, caused a united front against the Commission, which led to consensus seeking on the Renewable Energy Directive as well as the ETS.

Starting with the latter, the ETS, has been quickly adopted in the 'pilot phase' due to the fact that four countries, Denmark, Sweden, The Netherlands and the UK, already had a national emission scheme. Besides, in the first and second ETS trading periods, thus up to 2012, the EU decided to give most of the CO<sub>2</sub> permits to power plants and energy-intensive industries for free, which was of course favoured by Member States. In regard to auctioning permits, the Commission's original plan was that from 2013, that Member States' industries would have to buy all their permits at auction. However, Poland, whose power plants are 95% reliant on coal, argued that the extra cost of buying permits would mean an unacceptable rise in electricity prices, a fear echoed by its former communist neighbours (BBC, 2010). This plan to auction upwards of 90% allowances would have negative



implications for consumers and for economic development (Carlarne 2010, p. 230). ). Poland pulled along other Central and Eastern European Countries. Thus seeking consensus was not only due to poor and new countries, the crisis also affected the strength and support amongst the ‘green pioneers’. This is to say, it is not that they did not support climate action anymore, but they did seek special treatment. Especially industrial lobbies in Germany, Austria and Italy complained that the cost would be too great, at a time of economic hardship.

At the same time, these countries were also critical about the Renewable Energy Directive. This was due to the Commission’s decision to set national targets, but as there are only 11 years more to be met, the starting points matters (Helm 2010, p. 15). However, repeated attempts by some Member States to weaken the Renewables Directive were effectively defeated and the resulting deal is strong with no major loopholes. The UK, for example, pushed hard to get aviation excluded from the deal as the UK has a very large aviation sector. Although the UK has not been successful in doing this, its target was reduced from 15 per cent to 14.5 per cent, because the UK stressed that it had no experience with renewable energy.

Because both Directives faced opponents, the Commission started negotiating and proposed that Central and East European member states should get a) less demanding targets for increases in renewables with several concessions; b) permission to increase emissions in sectors outside ETS (mainly transport, building, agriculture and services) in contrast to emissions cuts for richer; older member states; and c) a slightly larger share of ETS allowances to auction than their share of economic output would warrant (Buchan 2010, p. 375). However, Member States were still not satisfied and organized themselves within the Council as one front. With help from France (Sarkozy) Member States and the EU settled after agreeing on two extra points: a further increase in ETS auction revenue and transitional free allowances for their power sectors (Buchan 2010, p. 376). Although the Parliament and Council have had the Commission’s back regarding most of its proposals, they disagreed with the Commission’s proposal for free cross-border trade in renewable energy.

Although both parties agreed, the Renewable Energy Directive had, and still has, to deal with a lot of criticism, not only from Member States but also from experts and NGOs. Technology plays an significant role when it comes to renewable energy, which has often been stressed by countries such as Poland. In the case of wind energy, technology has been well developed and is therefore favoured by the Commission as it made the additional requirement that wind should be given priority access to networks. Yet, its disadvantage is that it needs back up. However, the targets have to be met with existing technologies, as it is unlikely that other innovative measures will be established and implemented within the Member States. Despite the lack of technological improvements, economics state that uncertainty about renewables will cause less investments. Moreover, the Directive also



includes a controversial target for 10 per cent of all road transport fuel to come from renewable sources by 2020. Faced with evidence that biofuels are pushing up food prices and increasing emissions through deforestation, some MEPs have pleaded to reduce the target. These attempts failed, although they did secure changes to renewable fuels that are not based on food crops (Buchan 2010, p. 376).

### Parliament and Council

Despite the fact that EU economies were in dire straits during the negotiations leading up to the Package and Member States therefore failed to comply to all measures that the Commission designed at first side, internal events were about to happen as well. First, negotiations in the Parliament were under time pressure due to the deadline of European elections in 2009 and the advanced Copenhagen negotiations at the end of 2009. Moreover, the relation between the different DGs involved in the negotiations (CLIMA, ENVI and Parliament Committee ITRE) was shaped by the perceiving need to compromise, as the package not solely point at climate change but also to energy and industry. As a consequence, there was no free exchange of views and open conflict was herewith constrained (Lenschow 2010, p. 324). This implicates that the climate change problem seemed to be utilized to push internal discussions on difficult decisions about energy and industry.

### The final Package; reactions

Despite the fact that Member States were concerned about their economies and implementation possibilities, most of them were positive about the EU's contribution to combat climate change. For instance the UK, which target regarding renewable energy was eventually reduced, welcomed the proposals. Although reaching the targets would be 'quite challenging' because of their relatively low share of renewable energy (EurActiv 2008). Germany, often called as the 'green pioneer' in this case, appears to be more divided as the Economy Minister Michael Glos stated that "the EU should not dictate the rules to us", while Germany's official reaction had been that the policies were 'economically viable' (EurActive 2008). Denmark and Sweden have also been positive, as Denmark's environment minister Connie Hedegaard stated that 'we want to be a leader so this is what we have to live up to' (EurActiv 2008). Yet the opinion is that their previous efforts of reducing emissions have not been taken into consideration. France stated it will 'become the most sober carbon-emitting economy in the European' (Ecology Minister Borloo, BBC 2008)

Among political groups in the Parliament, the Greens were rather negative about the outcome of the policies. They accused the Commission of being pessimistic, while arguing that the exemption of certain energy intensive industries from full auctioning is "starting from the negative assumption that no other countries will introduce binding measures to reduce emissions from these sectors, which could be circumvented by the use of a climate levy," the group said in a statement (EurActiv, 2008).

### Conclusion

This case study showed that the Commission has not been entirely free to select its policy instruments. That is to say, the Commission proposed directives, but due to unintended consequences as well as upcoming events, the Commission had to agree with directives being revised. Under uncertainty, EU politicians are standing back from far-reaching commitments to green their economies and to meet those environmental and energy targets that might make a real difference (Pollack et. al. 2013, p. 500). However, the case study also showed that, for instance in the case of Poland. The country was willing to support EU measures, but each negotiation revolved around financial and technical assistance together with differentiation in targets. Besides Eastern-European countries, also Western-European countries such as the UK and Germany shied away from imposing extra costs on the industry. Overall, it revealed that progress comes at efforts and compromises, yet progress has been made.

## Discussion

In the final chapter of this dissertation, an overview of the main results as well as an interpretation of these results will be presented. Despite this, the case study results will be linked to the existing, academic literature, which will also be critically discussed in order to find out in what way it contributes to the knowledge in the field of policy instrument selection. In addition, the central question will be answered in light of the historical institutionalism approach. Finally, this chapter includes a discussion on future challenges the EU, and especially the Commission, will face regarding climate change policy making.

## Case study findings and previous research

When discussing the different findings of the case study in relation to previous research on the Commission's policy selection process, similarities, differences and challenges will be reviewed. First, the case study findings will be presented in light of historical institutionalism. The second part contains a more technical conclusion on how the previous mentioned findings determined the Commission's selection process.

## Policy framing

First, the case study reveals that the EU is aiming at being the most ambitious leader when it comes to tackling climate change. The Europe 2020 goals are part of an overall strategy within Europe, but are also part of a long-term programme towards 2030 and even 2050. The climate change problem therefore seems to be 'locked-in' as Hall calls it, meaning that it has to be tackled, now and in the future. These long-term plans and the fact that the Commission has put climate change as priority even during an economic downturn, confirm that the issue has been framed. However, Hall's explanation on a policy paradigm fits even better. He stated that "a framework of ideas and standards that specifies not only the goals of policy and kind of instruments that can be used to attain them, but also the very nature of the problems they are meant to be addressing" (Hall 1993; 279, Béland, n.d.). The latter may refer to the broad scope the framework has. The EU is not solely focused on climate change, it has also included energy issues into the Europe 2020 goals. It can thus be argued that, expanding climate change policies to the field of energy, the EU seems to be addressing the 'core' problem. But, this framework can also be seen as a constraint for the Commission. Because of this broad scope, the Commission has to negotiate with many actors involved, such as the industry and energy committees. This relates to Bulmer and Padgett's (2000) statement: 'the EU already operates at multiple levels where various actors are active in the same field, so this opens it up for further agenda setting by a wide range of actors and that adds even more layers of actions with some role in shaping the policy in the decisional and implementation stage'. However, energy itself is a large and difficult topic, so it might explain why energy efficiency has not been included in the Package. In this context, the

Commission is not able to decide upon itself. Therefore, looking at the policy framework, seems to be path dependent.

#### Trade-oriented

In regard to the combination of climate change with the energy subject, the case study showed what was already mentioned in the literature review: the EU being trade-oriented. The EU was first trade-oriented because of the harmonization priority. Yet these instruments are still related to trade and a common market, as can be concluded from the case study. Looking at the long history of the ETS, the EU was not in favour of a general emission scheme in the first place. In this context, Jordan's assumption of 'a group of actors is seeking to push their views or ideas and that may lead to a conflict with other EU priorities such as economic growth and competitiveness might be true, because it has been implemented despite the EU's resistance. Yet, if the EU really was against a scheme, it would only have implemented the scheme up to 2012, when the Kyoto Protocol would expire. Because of the EU is strongly trade-oriented, also here path dependency can be identified. To be more specific; the fact that the ETS has been revised and even broadened to a general emission scheme refers to the self-reinforced path.

#### Unintended consequences

The case study also revealed that policy making under certain circumstances, such as the economic downturn, eventually can lead to the implementation of other or revised policy instruments. Regarding the Commission's history in policy making while facing an economic downturn, the literature revealed that the Commission implemented soft policy instruments in the 1990s, such as informational measures. Looking at the Package, it has been clarified that the Commission not only implemented informational measures, such as Roadmaps, but also directives. Even under these circumstances the Commission adhered with its initial plan of implementing directives. However, the Commission had started with proposing directives and eventually also ended with the implementation of directives, yet the economic downturn did influence the outcome of the policies. Moreover, the case study showed that the Parliament, of which the Commission is reliant, was heading to the Parliamentary elections a year later, in 2009. Negotiations had thus been accelerated, which could have been a struggle for the Commission as well. Overall, this part of the case study revealed that long-term plans are constraint by long-term risks.

### Implementation problem

As previously mentioned, the EU is the most ambitious actor when it comes to tackling climate change. Although Member States have supported the first phase of international climate change agreements (UNFCCC and Kyoto), they do not often share the same ambitions as the EU. This is partly due to the economic crisis. The case study showed for instance that Germany, the green ‘pioneer’ when it comes to a better environment according to Héritier, is very ambitious by aiming at a 40% emission reduction by 2020. A rich and ‘green’ country as Germany will implement EU climate change policies, because it is one of their important national policies as well. On the contrary, and due to the EU-enlargement, Eastern-European countries such as Poland have different priorities. This country relies on coal when it comes to their energy supply and is therefore not in favour of EU regulation on, for example, renewable energy. However, the literature chapter clarified that the implementation problem is not really new to the Commission, as it first appeared to be an issue in the late 90s due to worries about costs. From then on, the Commission started to implement directives more often, as they offered regulation in a non-conflictual manner, which indicates that it is more depended on directives as policy instrument because the chance of adoption and implementation is higher. However, as explained in the literature review, the Commission faces the highest rate of infringement procedures when it comes to environmental policies. Yet, the Commission also stated that it wanted to ‘downplay’ the amount with horizontal measures such as guidelines and roadmaps. This measure can certainly be identified in the case study, as it implemented roadmaps to ensure that the 20% target will be reached. The literature also revealed that the implementation problem constraints the Commission as it will not keep pressuring the same countries, because it might endanger the political support of the wider integration process. That might be the reason why consensus has been ensured with Poland in the case of the directives, as the Commission must have known that Poland’s preference for coal will not be changed in the very near future. In other words; this might explain why the Commission has reached an agreement with Poland instead of ignoring them, otherwise it would have infringed Poland after 2020, when it did not reach its targets.

### Path dependence vs. rational choice

To conclude, it can be identified that the Commission selects climate change policy instruments due to path dependency. First, the Commission has been set on a general ‘path’ when it comes to combat climate change, due to the policy framework that has been established after the Kyoto agreement. However, when the Commission has to operate within this framework, it also seems to be path dependent when it comes to selecting soft policy instruments (in this case Directives and Roadmaps), because there is less support among EU actors as well as Member States (including their industries) for strategic choices. This is, looking from the EU actor’s perspective, due to the trade-oriented view the EU has, as well as the on-going priority of harmonization. From a Member State perspective, it is mainly due to state preferences and state priorities, which are not always the same as EU’s priorities. If

there is no support, Jordan's statement that 'actors will select instruments to what is appropriate in the institutional context, meaning political acceptable' can be confirmed. And, as the literature and case study have shown, directives seem to be political acceptable as they are the most common form of policy instruments when it comes to environmental policies. To this, Jordan's argument that actors only willing to change their policy process and selection of instruments when it faces a policy failure, can also be confirmed, as directives have not failed until now. Thus, it seems that there is no room for choice. Especially not when the Commission has to combine unintended consequences with EU and Member State preferences to ensure that the policy proposal will be adopted, which has been best explained by Tallberg; "The Commission is constrained in that it needs external support from other EU actors – either from influential Member States, the Parliament, or the Court – if the agenda it is promoting is to have a realistic chance of adoption."

All together this implicates that the Commission is rather path dependent than that it takes rational choices. However, that does not exclude rational choices in general. These choices have occurred, yet in a different manner. First, it can be argued that, from a rational perspective, preference goes out to open-ended policy instruments, 'because there is no need to check upon states'. Second, as Jordan states, only instruments will be selected that fit the structure rather than challenge the structure (thus in the case of the EU; trade-oriented policy instruments) is a rational choice. Furthermore, the decision to implement the ETS was a rational choice, as the EU was concerned about the consequences when it would not implement Kyoto's measure of a general emission scheme. Yet, this has not been a rational choice of the Commission, but of the EU in general. This shows that rational choice does appear in decision-making, but it includes institutional preferences rather than individual preferences within the Commission.

### Conclusion

In conclusion, both the literature and the case study clarified that the Commission is surely not the only actor that takes decisions on policy instruments. This is to say, the Commission is the only actor proposing policies, yet it struggles with preferences from Member States, EU's trade-related preferences and unintended consequences such as the economic downturn. The next section will provide the answer on the central question in detail.

## Conclusion and future challenges

In regard to the explanation above as well as previous findings, the central question will be answered:

*“Which internal factors have influenced the Commission’s determination to implement soft policy instruments to combat climate change in the period after the Single European Act (1987 - today)?*

Since the establishment of the SEA, the Commission has faced major changes, yet not all of them influence the policy selection process and determine that the Commission selects soft policy instruments, but do have to be explained first. To start, the Commission faced changes in competences since 1987. Together with gaining more competences, namely ensuring policy implementation, the Commission had to deal with implementation failure of Member States. This problem continued and is still a challenge for the Commission at the moment of writing. Implementation failure is correlated with Member States’ priorities and preferences. This, again is linked to the EU’s ambitious behaviour of being leader in combatting climate change. Thus, while Member States are mainly concerned about their own policies, although they did support the Kyoto Protocol, they were heading to an even more ambitious climate change plan; the Europe 2020 goals followed by 2030 and 2020 targets. Along with this ambitiousness, the Commission still tries to manage it all, with still being reliant on Member States as well as EU actors because, although competences have grown, it still is not solely in charge of the whole climate change combat. Because it is reliant, it has to take into account their preferences and situations as well. To combine all these factors and to head towards a direct answer on the question; Since the SEA, soft policy instruments have been implemented due to resistance of Member States (mostly due to national priorities as well as unintended consequences such as the economic downturn) as well as EU priorities (trade-biased and ambitious on the international level when it comes to climate change). Because of the inability of the Commission to take strategic and thus rational decisions due to the fact that there it gets less support from both Member States and EU actors, the Commission has to take decisions that fit the structure and is therefore path dependent. Thus, the internal factors (competences, Member State and EU actor’s preferences, and unintended consequences) determine that the Commission’s decision to implement soft policy instruments is due to an overall path dependency due to the fact that rational thoughts are impeded by economic desires and threats.

Although the central question has been answered, the Commission and the EU in general will be facing problems that have also been mentioned in this research, yet not in detail, of which some are explained below.

## Supranational actor and climate change

The implementation problem that the Commission faces is just a micro part of the actual problem; a supranational actor posing laws on Member States. This includes different problems such as the

maintenance of unity in diversity, competition between national priorities and supranational imperatives and the distribution of powers between actors at different spatial levels of government (Jordan 2013, p. 262). However in the context of climate change policies, the main question is actually whether the EU can ensure that its problem-solving capacities keep in pace with its evolving policy ambitions (Jordan and Camille 2013, p. 380). If not, the environment will suffer as well as the political image of the EU.

### Policy performance

The status of directives being legally binding can be questioned. First, because directives are a framework for countries to reach a target in a specific time period, but when failing, the Commission can only handle after the directive date has been expired. Moreover, it can be argued that directives are somehow also soft policy instruments, due to the freedom that Member States get. Furthermore, directives that have been proposed are often, as the case study has shown, revised or contains special rules for countries that obtain. Finally, the Commission has selected directives to reach not only the 2020 target, but also the 2030 and 2050 emission reduction targets, as it seems that these directives will continue after 2020. It thus extremely relies on the supplementing measures such as Roadmaps, as these are, until now, the only measures that have been taken to combat climate change after 2020. However, the effectiveness of soft regulation to foster compliance, especially of those actors that face heavy costs, is still questionable (Mörth 2004; O'Hagan 2004, Jordan 2013).

### Technology

Although the Commission implemented Roadmaps to assist Member States in their road to a better climate, the case study revealed that Member States, such as Poland, already struggle with the lack of technological equipment, abilities and knowledge. The technical complexity of climate change mechanisms already puts the Commission in a strong position vis-à-vis Member States (Buchan 2010, p. 378). Moreover, as the EU has broadened the scope of emission reduction and it even included aviation into its policies to reduce emissions, it is rather change that shipping emissions are not included. However, that would make it even more complicated to handle for the Commission, because, how to define and determine who is responsible for the emissions? If a Dutch ship is near the coast of Italy, who is responsible for its pollution; the Netherlands or Italy?



DECIDE.  
COMMIT.  
SUCCEED.



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## Appendices

### Appendix 1: Interview – European Climate Foundation

Interview with Martijn Broekhof

2013, March 5, The Hague

#### Interview summary

Martijn Broekhof van de European Climate Foundation gevestigd in Den Haag, heeft een korte uitleg gegeven over de aanpak van klimaatverandering in de EU en de problemen die worden tegengekomen, zowel nu als in de toekomst. Hernieuwbare energie blijft een probleem vanwege tegenstanders en gebrek aan technologische hulpmiddelen. Daarnaast klimaatverandering een politiek probleem; landen hebben hun eigen prioriteiten.

#### Transcript

**1. Allereerst wil ik u bedanken voor uw tijd. Graag zou ik wat inzicht krijgen in het werk van de European Climate Foundation. Wat doen jullie precies?**

Ja natuurlijk. EDF is een milieu organisatie, onafhankelijk van de EU zoals velen niet weten. De organisatie is opgericht in 2008 en onlangs zijn wij naar dit mooie pand verhuisd. Wij zijn eigenlijk de schakel tussen overheid, het bedrijfsleven, belangenorganisaties en lobbygroepen en wij worden weer gesponsord. Het geld wordt dus eigenlijk doorgesluisd. Wij brengen ze met elkaar in contact en samen met onze eigen experts kunnen zo nieuwe plannen worden gemaakt om klimaatverandering en vooral energie-gerelateerde problemen tegen te gaan. Onze 5 programmarichtlijnen zijn dan ook: power programma, energy efficiency programma, transport programma, global climate change policies programma en EU climate change policies programma. Ik weet niet of je het hebt gezien op de website, maar wij hebben onlangs een Roadmap uitgebracht naar aanleiding van de Copenhagen Summit in 2009. De Commissie heeft hier afgesproken dat 80% emissie reductie moet plaatsvinden vergeleken met het niveau van 1990 en dat vóór 2050. Wij hebben de implicaties voor de Europese electricity industry bestudeerd en zijn met de Roadmap 2050: A Practical guide to a prosperous low-carbon Europe gekomen, dat dus een rapport is met plannen voor de lange termijn. Wat er uit het rapport kwam is dat de power sector van kolen af moet om deze 80% reductie in 2050 te kunnen halen. Wat er ook uit kwam is dat het economisch en technisch haalbaar is voor landen om dit te bereiken, dus dit kan niet als excuus gebruikt worden. Nou, in reactie dáárop kwam de Commissie in 2011 met hun eigen rapport dat heet 'A roadmap for moving to a competitive low carbon economy in 2050'. Hierin stond dat de Commissie voor de power sector een

reductie van 54% tot 68% wil zien voor 2030. Dus, als laatst kwamen wij weer met een nieuwe roadmap met een meer technische analyse voor landen hoe ze dat kunnen bereiken. Het heet overigens 'Power perspectives 2030: on the road to a decarbonised power sector'. Hierin staat vooral waar landen zich aan moeten voldoen om de doelen te halen.

2. **Zullen deze Roadmaps bijdragen aan het behalen van de Europe 2020 doelen aangezien het onder de 'softe' beleidsinstrumenten valt?**

In principe zijn Roadmaps een hulpstuk voor landen om zelf op verder te borduren. Dus, wij laten zien dat het haalbaar is om bepaalde redenen zodat landen niet kunnen zeggen dat dat niet zo is, maar zelf moeten ze het wel implementeren in hun eigen wetgeving. En dat is nou juist het probleem met de EU dat klimaatverandering wil tegen gaan als zijnde één front. Er is weinig controle want er is een politiek spanningsveld. Daarnaast heeft elk land andere prioriteiten en dat ligt ook vaak aan de zittende regering. Duitsland bijvoorbeeld, is erg goed bezig. Ze investeren al jaren in hernieuwbare energie en zijn helemaal gestopt met kernenergie. Bij hun staat hernieuwbare energie al heel lang op de politieke agenda, mede door NGO's, maar ze hebben natuurlijk ook geld om erin te investeren. Dat doen ze bijvoorbeeld op een slimme manier in zonnepanelen. Dan krijg je 8% terug op je huidige investering en ja, dat motiveert. Goed plan, maar erg duur en landen als Polen willen dat geld niet uitgeven dus blijven ze vastklampen aan kerncentrales. Nederland is weer een ander verhaal, wij stellen kerncentrales alleen maar uit. Maar, om terug te komen op je vraag over Roadmaps; er zijn ook landen die, naast onze Roadmaps, hun eigen Roadmaps hebben gemaakt om te zorgen goed op weg te blijven voor zowel de 2020 als 2050 doelstellingen. Dit zijn bijvoorbeeld Ierland en Denemarken.

3. **Nu zijn er ook negatieve geluiden te horen over vooral het promoten van hernieuwbare energie. Zo heeft bijvoorbeeld Milieudefensie een rapport uitgebracht over de nadelige effecten van het produceren van hernieuwbare energie, zoals het uitbuiten van boeren, voedseltekorten en daarmee ook toenemende armoede. Wat vindt u daarvan? Hebben zij gelijk? En bovenal, kunnen zij invloed uitoefenen met hun rapporten op het maken van beleid in Brussel?**

Ja, moeilijk onderwerp. Allereerst: biobrandstoffen zijn voor transport doeleinden en biomassa voor energie. Ik weet niet of het ook in die rapporten is uitgelegd, maar bij hernieuwbare energie gaat het erom dat de cyclus klopt, anders is de CO<sub>2</sub> uitstoot als nog niet nul. In theorie klopt het wel, maar als er een oerwoud gekapt wordt en er komt niks voor in de plaats is de cyclus al verstoort. Maar, aan de andere kant is het overgaan op alternatieven zoals kolencentrales, windmolens, zonnepanelen et cetera ook niet CO<sub>2</sub> neutraal. De cyclus bij

energie opwekkers is dus nooit CO<sup>2</sup> vrij. Dus, terugkomend op je vraag; de kritiek op biobrandstoffen van o.a. Milieudefensie moet dan voor alle hernieuwbare energiebronnen gelden. Daarnaast moet je dan vóór kernenergie zijn en dat kan Milieudefensie natuurlijk ook niet.

4. **Wat zou de oplossing zijn volgens u?**

Je hebt dus NGO's die erg radicaal zijn en overal tegen, dan heb je het tegenovergestelde zoals de industrie die op dezelfde voet verder wil gaan (vooral de VS trouwens) en dan heb je het midden zoals wij die transitie goed vinden maar dan moet het wel op de juiste wijze zijn. Zoals bij het importeren van biomassa: waar moet het aan voldoen, is daar al beleid voor gemaakt etc. Alles heeft onderzoek nodig en op basis daarvan moet beleid worden gemaakt.

Maar, het probleem is eigenlijk groter. Er zijn 5 soorten vervoersmiddelen; vliegtuig, schip, vrachtauto, personenauto en de trein. Voor alles zijn Europese richtlijnen en standaarden, behalve voor schepen. Dit moet eigenlijk internationaal afgesproken worden maar dat is tot op heden lastig. Hoe verhaal je namelijk vervuiling bij schepen?! Bij het land waar het schip afkomstig is? Bij het land waar het schip vandaan komt? Bij het land waar het op dat moment is? Voor vliegtuigen is overigens ETS de richtlijn. Nouja, daarnaast zijn er een alternatieven voor transport, dus vervuiling blijft. Er zijn wel waterauto's gepromoot maar daar is dan weer niet voldoende productiecapaciteit voor.

5. **Hoe ziet u de toekomst van EU klimaatveranderingsaanpak voor u?**

In principe is niks ideaal. Door technologisch ontwikkelingen aan de ene kant, waar het aan ontbreekt dus, en politiek prioriteiten aan de andere kant. Het heeft allemaal gevolgen. De auto's die op water rijden dat ik net noemde, is niet haalbaar. Elektrisch rijden is ook niet haalbaar want dan moet je weer investeren in de infrastructuur. Daar hebben veel landen geen geld voor en vooral niet voor over, en daarnaast ook niet de capaciteiten. Landen experimenteren met wat voor hun het beste lijkt, zoals de VS. De VS is nu heel erg bezig met het winnen van schaliegas. Is maar liefst 75% goedkoper. Deze energie gaat dan naar Europa en wij profiteren van deze goedkope energie. We lijken dan even te 'vergeten' dat we op de groene tour waren nu er economisch voordeel te behalen is.

## Appendix 2: Table – New institutionalism

Differences and similarities between the three institutionalism (Jordan and O'Riordan 1999, p. 85)

Table 1  
The 'new' institutionalisms in social science

	Historical institutionalism	Rational choice institutionalism	Sociological institutionalism
Disciplinary base	Comparative politics; state theory	Rational choice; economics; game theory	Sociology; anthropology
View of institutions	Mostly organisations and the rules they promulgate for their identity and survival	Generally formal rules of procedure, conventions and protocols	Moral templates and cognitive scripts that offer frames of meaning
Decision logic	Calculus/cultural: without denying individual rationality, preferences regarded as fluid	Calculus: logic of rationality – preferences are stable and exogenously defined	Cultural: preferences are unstable and endogenously defined through association and bonding
Origins of institutions	Contingent: new institutions develop in a world replete with existing institutions	Functional: institutions are created to serve the interests of members	Contingent: new institutions develop in a world replete with existing institutions
Institutional change	Institutions normally stabilise politics, but certain forms create change	Change occurs only when actor preferences change in order to restore equilibrium	Institutions shape world-views: actors choose from a series of templates when designing new institutions.
Strengths	Tries to link decision logics; eclectic	Clear precepts permit theory development and testing	Analyses preference formation
Weaknesses	Ambiguous about key relationships; too inductive; too empirically orientated; insufficient theory building/testing	Weak at explaining change: do institutions persist <i>only</i> because they are efficient? Core assumption of rationality is simplistic; view of institutions is too intentionalist/functionalist	Ambiguous about key relationships; too deterministic
View of history	Generally inefficient at matching outcomes to exogenous pressures	Generally efficient: changes in preferences automatically and rapidly feed through to institutional change	Generally inefficient at matching outcomes to exogenous pressures
Level of analysis	Meso	Micro	Macro
Summary	Institutions have lives of their own and resist re-steering. They are <i>independent</i> variables. Institutional structures shape and are shaped by the strategy of individual actors	Institutional structures are shaped by the strategy of individual actors. When preferences shift, the institutions shifts accordingly. They are <i>dependent</i> variables	Individuals may behave 'rationally' through socially determined mores. They are only 'rational' when set in such frameworks.
Relationship to cultural theory	Egalitarian/hierarchist	Individualist	Egalitarian/hierarchist