



Regulating Climate Change and Governing Environmental Risk in the EU: a Gramscian Framework for Analysis

by

Shane Fudge and Yacob Mulugetta

RESOLVE Working Paper 03-11



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**Research Group on Lifestyles, Values and the Environment
Centre for Environmental Strategy (D3)
University of Surrey
Guildford, GU2 7XH, UK
<http://www.surrey.ac.uk/resolve/>**

Contact details:

**Shane Fudge: email – S.Fudge@surrey.ac.uk
Tel: 00 44 (0)1483 682187, Fax: 00 44 (0)1483 686671**

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Abstract

The debate on climate change is the latest issue to have extended the EU's influence in regulating environmental risk. Since the mid-1970s for example, the EU has been influential in enforcing policies in areas as diverse as acid rain, ozone pollution, waste, water and leaded fuel. This paper suggests that while the European institutions were originally an 'opportunity enabler' for a range of environmental issues and groups, the issue of climate change has illustrated the way in which the business lobby has gained ascendancy in shaping policy – primarily in alignment with the need to maintain competitiveness and to operate within a market framework. Using Gramsci's idea that policy hegemony is always a process of negotiation between different actors and alliances, the paper considers the different ways in which the EU has been a focal point for the shifting politics of environmental issues and considers whether it still has a role to play in encouraging a broader dialogue on 'climate solutions'

1. Introduction

In January 2008, the European Commission announced plans for a comprehensive package of measures regarding energy and climate change. Claimed to be a set of proposals which would lead global action on climate change, the main aims of what Commission president Jose Manuel Barroso (2008) has called the '20/20/20 proposals' were that Europe must cut greenhouse gas emissions by 20%, produce 20% of its energy from renewable sources and increase energy efficiency by 20%. Added to this, the Commission has proposed that 10% of transport fuels must be sourced from bio-fuels by 2020. Barroso himself argues that the measures constitute 'the most far-reaching legislative proposals made by the European Commission for many years' (Barroso, 2008:1). This paper argues that the EU brings a legacy of action to the environmental debate in relation to previous successes regarding issues of environmental regulation. Areas such as ozone depletion, acid rain, waste and building regulations clearly demonstrate, for instance, EU influence in providing coherence to the diversity of member states' energy policies and also in helping to unravel some of the political ambiguities regarding 'differential environmental responsibility'.

Utilizing a Gramscian theoretical framework, the paper considers the ways in which EU environmental policy, particularly from the period of the Single European Act (SEA), has been shaped primarily by the influence of trade and business organizations. The paper argues that while this area of policy was initially negotiated through the influence and interaction of a greater diversity of agencies and interests, as the EU sought to build competency in this area, the growing profile of climate change saw environmental issues begin to move into the 'high politics' of the single market. Van Apeldoorn (2002) for instance, has pointed out that the push for completion of the single market that occurred at this time was driven primarily by business coalitions and trade interests – of which the most notable representative was the European Round Table of Industrialists (ERT). The paper suggests that this lobbying process was part of a wider set of developments which enabled these interests to begin to build consensus and legitimacy through the growing political influence of the EU as an agenda setter.

The article makes the point that the development of carbon trading as a 'first mover' response from the business sector has been a clear illustration of this agenda and of the overall emphasis that EU policy on climate change has placed on market instruments and 'technological fixes'. It is suggested that this often poses contradictory agendas whereby the primacy of corporate influence encourages 'trade-offs'. For instance, while the EU has been active in encouraging liberalized energy markets, and enabling the supply oriented nature of energy utilities, the paper points out that these are often difficult to regulate according to environmental terms where they often conflict with supply security and competitiveness agendas. Lohmann⁴ for instance argues that carbon trading legitimates the continued use of fossil fuels in energy use while simultaneously endorsing 'property rights over the world's carbon absorbing capacity; legitimating the entrenchment of corporate power over carbon dumps'. The most recent EU climate change proposals for

instance have been criticized by many in the business lobby as too punitive, while the environmental lobby has been particularly vociferous in suggesting that the 20/20/20 agenda itself doesn't go far enough in encouraging a low carbon future in Europe. The paper therefore takes a closer look at some of the trade-offs that have been made by the EU in relation to its climate change agenda, why they have been made, and in whose interests they have been. The final part of the paper considers the future of climate change policy in the EU and considers the possibilities for a more open debate on its future role in facilitating the move towards a low carbon European economy.

2. Analyzing the development of EU environmental policy through a neo-Gramscian framework

Hix (1999) argues that there is a new academic agenda emerging on the study of European integration which revolves around what he calls 'the new governance'. Explaining this development, he argues that the new agenda relates to the difficulties in conceptualizing a political process which takes place through what is more clearly becoming:

A unique set of multi-level, non-hierarchical and regulatory institutions which are informed by a hybrid mix of state and non-state actors. Comparative politics/public policy is inadequate as a conceptual tool because it is rooted in the study of domestic states. Instead of replacing international relations with an 'old agenda' therefore, the task is to develop a new theoretical and normative programme. Echoing Dahl's (1961) famous 'epitaph to the successful protest' by the behavioural school, this 'new governance' perspective welcomes the new comparativist critique of IR, but argues that it is time to sail on to new waters (Hix, 1999:14)

Levy and Newell (2005:2) have taken this idea further in utilizing a Gramscian theoretical approach to the study of European integration, and have argued that this is particularly helpful in identifying the status of environmental governance and 'the broad range of political, economic and social structures and processes that shape and constrain actors' behaviours towards the environment'. The resurgence of academic interest in the work of Antonio Gramsci (1971) in political science (Gill, 2003; Van Apeldoorn, 2002; Van der Pijl, 1998), follows what Levy and Newell have described as the need to highlight areas of disequilibrium and change as opposed to the convergence and stability which has been encouraged, particularly by the popularity of regime theory in international relations. European integration they argue is as much about the contradictions, competing ideological viewpoints and contesting economic and political terrains as it is about harmony and convergence. They suggest that Gramsci's idea of 'hegemony' has become a particularly useful concept with respect to the integration process since 1985 where the ratification of the Single European Market has seen a much harder-edged, market centred model of the EU that is being driven by globalization and more intensified market competition. As Van Apeldoorn has suggested:

The European integration process has become increasingly biased in favour of deregulation and the free play of market forces, establishing the primacy of negative integration (market liberalization) over positive integration (providing public goods at a European level). European integration thus has come to be bound up with a restructuring of Europe's socio-economic order (Van Apeldoorn, 2002:1).

Environmental policy is clearly an interesting area through which to view these developments where they have not traditionally been regarded as a mainstream part of economic and fiscal policy initiatives at European level. Levy and Newell argue therefore that 'Gramsci's concept of hegemony provides the basis for a more critical approach to the 'the interaction of material and discursive practices, structures and stratagems in sustaining corporate dominance and legitimacy in the face of environmental challenges' (2005:61). Thus, for instance, while the market frames the dominant agenda and discursive practices through which integration has now been constructed, the degree of consensus which is achieved – particularly in the policies which underpin the integration process – can often be traced through the resolution of conflict, alliance, and concession.

Levy and Newell go on to argue that evolution of EU policy on climate change has been a case in point, where outcomes have invariably been the result of the historical negotiations which have taken place between a range of actors, firms, industry associations, NGOs, state agencies, consumers and international organizations on the content and form of policy initiatives. As they point out in relation to the burgeoning debate on climate change at EU level: 'this process has included efforts to deploy scientific and economic assessments to frame debates in particular ways, to forge broad alliances, and to project a specific conception of the general interest' (2005:58). They argue that a Gramscian approach also enables us to analyze the power relationships in these negotiations and the ways in which balances of power and influence between various agencies often shift in relation to the establishment of new norms and associated discourses such as 'technological innovation, the construction of coalitions, and engagement in debates over the science and economics of environmental issues' (2005:10). In summary, Levy and Newell argue that the EU's environmental agenda has been political process where the construction of issues such as climate change in policy have come about as the result of shifting coalitions between agents, ideas and structures.

3. European integration and the evolution of environmental policy

It is suggested therefore that environmental policy in the EU has followed through different phases as what Henig (2002) describes as the 'context and process' of European integration has played out. During the initial phase of European unification – in the period leading up to the early 1970s – there was little policy provision in this area. As with other policy domains that fell outside of the remit of the fledgling European institutions such as social welfare, it was felt by Jean Monnet (1978) and the original architects of European integration that the economic process of 'functional spillover' would eventually be substantial enough to account for areas

of policy that had been excluded from the original design and would help to bolster policy areas that remained in the remit of national governments. Therefore as Lowe and Ward (1998) point out 'the 1957 Treaty of Rome that established the EEC made no mention of environmental protection'. The principal aim of this agreement they suggest, was to be the construction of a free trade area through which to 'reflect the dominant concerns of post-war Europe with economic reconstruction, modernization and improved living standards'. Significantly, during this period it was the member states that implemented and monitored their own, nationally-based environmental policies. These ranged from a fairly progressive model in Sweden, where there was a fairly *proactive* stance on issues such as pollution and waste, to environmental policies such as those in the UK where a fairly *reactive* policy approach was adopted. Community initiatives were thus fairly *ad hoc* during this period and those that were, were based within limited areas of competence.

This stance subsequently began to change; initially in response to economic pressures invoked by the fledgling single market. Environmental issues within the context of the EU were first addressed through a growing concern that existing national differences in environmental standards posed the potential to distort the growth of free trade between member states. It was the Stockholm Conference however – where the EU was represented by all six member states of that period – which began an agreement whereby a more substantial European policy on the environment would demonstrate that the expansion of the single market would no longer be an end in itself, but would in future need to be more fully reconciled with other policy goals.

Jordan (2006) argues that what he calls *Europeanization* has often worked to 'lock-in' environmental initiatives according to the member states where the benchmarks have been set by countries that have been the most active in setting the highest standards in the environmental domain. Jordan argues that, among other things, Europeanization has enabled the other member states of the EU to gain a better understanding of the historical limitations of national policy and to consider the benefits of best practice, through more integrated approaches to pollution control and habitat conservation for instance. EU led policy has often also served to provide a more stable socio-economic context through which to facilitate the development of more consistent and progressive environmental regime. Jordan points out that it has been the case that economic recession, for instance, can pose a situation where environmental policies may slip down on a government's list of priorities. In this way, EU-driven policy can help to 'ratchet up' the possibility that environmental policy standards will lapse at a national level of decision-making.

4. Balancing economic and environmental concerns

While the Single European Act (SEA) was instrumental in accelerating the push to complete the single European market, it was also significant in that it began to integrate environmental issues more closely into Community-led policy. Acid rain, deterioration of the ozone layer and climate change were all concerns that had begun to expose the *trans-border* nature of contemporary environmental issues and there

was awareness that the EU could provide more effective regulation and coordination between national regimes. So while the thrust of integration took on a much more market-oriented approach from the mid-1980s, the greater integration of environmental issues into Community policy was facilitated by an institutional and decision-making reconfiguration which saw, for instance, the creation of a European Environmental Agency and the Environmental Information and Observation Network, in order 'to provide the Community and the Member States with objective, reliable and comparable information at European level, enabling them to take the requisite measures to protect the environment' (Johnson and Corcelle, 1995:364). The Directorate General (DG) for Environmental policy was also given a bigger profile during this period and endowed with the aim of working more closely in a partnership collaboration with other relevant Commission DGs, such as those involved with the internal market, agriculture, transport and energy (McCormick, 2001).

The EU was also given a greater legal framework through negotiations over the SEA where perhaps the most important development was the extension of qualified majority voting into the Council of Ministers regarding future environmental proposals. This was particularly significant in that it meant that individual member states could no longer put the block on what had up to then been primarily *nationally-based* policy measures. As McCormick argues: 'reluctant member states would now have to work much harder to reach consensus over environmental standards in the Community' (2001:56). Member states themselves were now much more exposed to lobbying at the European level, whether this is from other member states, NGOs, or trade and business organisations. The gradual push towards a more recognizably European level environmental forum – and the gradual migration of policy initiatives beyond the borders of the nation-state – now meant that agencies and interested parties now needed to be more organized around the relevant EU institutions.

A clear example of the influence of the Europeanized environmental agenda which developed subsequent to the SEA occurred when Germany and the Netherlands were able to successfully challenge the UK through the Commission, and subsequently the European Courts, over acid rain pollution during the 1980s. While international treaties pertaining to environmental issues had become more significant in raising the profile of environmental issues previous to this, decisions had not always been binding due to the continuing influence of intergovernmental decision-making. The development of a more influential EU environmental policy has been instrumental in *binding* a number of environmental issues into enforceable directives. The 1987 Montreal Protocol and the 1992 Climate Change and Biodiversity Conventions have both been significant as, Jordan (2006:11) has pointed out, 'in giving a strong push to EU efforts to tackle acid rain, ozone depletion, climate change, and biodiversity loss respectively'. As he suggests: 'through their involvement in the EU, states have been able to import good ideas from other states as well as export their own domestic 'best practices' to other countries. Different member states have also been able to lead the way on particular issues, for instance the Belgian initiated Directive 76/464 regarding dangerous substances in water or

'the French led Directive 75/440 on the quality of surface water intended for the extraction of drinking water' (Dinan, 2000:171). The EU approach to environmental policy thus now promotes a 'pooling together' of national environmental approaches. More recently this system is also seen as providing the key through which to develop and raise environmental capacity in the 'laggard' member states that joined in 2004.

4.1 Interest groups and the environment

The role of the EU as an arbiter for the growing profile of environmental issues during the 1970s had been exploited by many environmental groups and organizations who had found themselves marginalized by the insular structure and institutional design of national environmental policy during this period. Enlargements and the growing migration of political power to Brussels throughout the 1970s meant that it became an increasingly influential structure through which NGOs and interest groups could circumvent national governments where necessary and the often depoliticized environmental risks of this time.

Facilitating this kind of democratic engagement *beyond* cooperation across national borders is acknowledged by the Commission as an important way through which to ensure that social and environmental issues – goals which may fall outside of the direct remit of the single market – can be more fully integrated within the overall project of European integration. As Jordan argues, one of the most important ways in which environmental policy was opened up by Europeanization has been the way in which NGOs, civil society organizations, and even the general public were able to become more involved in influencing policy and political agendas (Jordan, 2006). This aim has been highlighted by the concept of 'subsidiarity' in policy – introduced at Maastricht in 1991 – where the Commission have argued that, where necessary, policy actions must be deployed at the most 'appropriate' level of decision-making and implemented by the most relevant agencies.

It was felt to be important therefore that the completion of the single market would remain facilitative of this relationship and particularly to the influence of what Beck (1999) has called 'sub-politics', where environmental and social issues for instance can be managed and governed through democratic and open-ended engagement as opposed to 'top-down' implementation. As Jordan has pointed out therefore, over time the environment has become an area illustrative of a policy domain where the EU's growing influence has enabled it to assume the role of an arbiter or 'higher authority' for the diversity of groups who have a vested interest in environmental matters; mediating between national, sub-national and supranational tiers of decision-making. Groups and organizations representing the activities of civil society and organized interests can often go directly to the European Commission as has been the case in areas such as 'erroneous or non-application of environmental assessment legislation in land-planning cases such as the building of new roads' (Jordan, 2006:14).

5. Is the EU a democratic forum for engaging 'climate solutions'?

Long (1999:116) concurs that the influence of NGOs on the evolution of EU environmental policy has been indisputable. He suggests however that, the increasing profile of climate change as an area of 'high politics' offers some interesting insights as to why the influence from environmental NGOs on policy has become more of a marginal presence compared to the input of other more dominant sectoral interests. McCormick argues for instance that while on the one hand the EU have claimed that environmental policy at European level provides a forum through which to engage wider dialogue on both the form and content of policy, there is evidence that the growing political and economic importance of climate change provides an illustration of some of the difficulties in engaging wider stakeholder debate, particularly when an issue enters the arena of 'high politics' (2001:116).

McCormick suggests that climate change has been one of a number of areas where environmental NGOs 'have failed to live up to their potential'. While the 1970s saw a mutually beneficial relationship begin to develop between the EU and environmental interests, McCormick argues that one of the reasons for this is that many of these organisations 'were slow to appreciate the implications of the evolving Community environmental programme and to begin actively lobbying the Commission' (2001:116). He points out that this occurred with the Campaign for Lead Free Air in the UK, where the group CLEAR were initially unaware of developing Community law on leaded fuel and the importance of lobbying the Commission as a part of their campaign.

Greenwood (2003) has also pointed out that stakeholder engagement with interest groups at the European level has become increasingly complex and is invariably characterized by a hierarchical engagement where some groups or coalitions are more likely to hold 'blue chips' of bargaining power in negotiations. He suggests that this is often compounded by the complexities of the European Commission and the structuring order of the different Directorate-Generals and their responsibilities; the variable influence of the European Parliament; and the insulated decision-making process of the Council of Ministers. The greater influence of the EU in influencing policy in recent years, and the accompanying greater intricacy of decision-making structures, now demands that interest groups must be a lot better informed, well-resourced *and* well-organized in order to be equipped to participate at what are often multiple lobbying points, depending on the issue at stake. In this context, as Balanya *et al* (2000) have suggested that there is no doubt that groups such as the European Round Table of Industrialists (ERT), the Union of Industrial and Employers Confederation of Europe (UNICE) and the EU Committee of American Chambers of Commerce (AMCHAM-EU) must be considered big players in the representation of increasingly high profile issues such as climate change as their vested interests in shaping the kinds of policies which will be activated in policy have become apparent.

Lohmann (2006) confirms that the significant policy developments to have occurred in recent years on the shape and content of European climate policy have been largely influenced by effective and proactive business lobbying. The preference for

carbon trading as the accepted figurehead for EU climate change policy has been a clear example of industry arguing for favourable terms as opposed to more stringent government regulation where this policy choice has also served to illustrate the differences in resources, expertise, and political organization between trade and industry groups in relation to those of environmental interests. This became particularly noticeable during the early European debates on climate change, the role of the EU, and which policies would be the most effective. As McCormick has argued in relation to the early negotiations over the framework that would be put in place for EU led climate change policy: 'one business lobby alone – the Union of Industrial and Employer's Confederation of Europe – had more staff in its secretariat than all the environmental NGOs combined' (2001:119). With regard to policies on sustainable development more generally at this time, he points out that, 'while environmental groups in 1993 had only one expert on biotechnology between them, the industrial lobby had a Senior Advisory Board sponsored by 31 corporations, including giants such as Bayer, Ciba-Geigy, Du Pont, Hoechst, and Unilever, whose resources were at the disposal of the board' (2001:119).

As argued above, the influence that business would be able to wield in dictating the terms for future direction of EU policy on climate change was more obviously apparent as far back as 1992 where environmental NGOs pushed for a Europe-wide carbon tax – as opposed to the proposed carbon trading scheme – through which to penalise heavy industry polluters. This particular issue was lobbied for extensively by the NGO coalition group Climate Network Europe, but As Skjaerseth has pointed out:

According to many observers, the proposed carbon tax/energy tax was made subject to some of the most ferocious lobbying ever seen in Brussels...business interests fought a tough battle, especially against the tax proposal which, in their opinion, would threaten the competitiveness of EU industries in the world economy (Skjaerseth, 1994:28-29).

Kramer (1997:297) has argued the point that generally 'environmental NGOs are underrepresented in Brussels and lack know-how and expertise in successful lobbying'. Research by Grant (2000) points out that one of the main problems preventing effective mobilization for these organizations in Brussels – despite direct funding from the Commission in many cases – is a lack of the resources necessary to compete on an equal basis with the often more organized and invariably better resourced business groups: organizations that often lobby the Commission in conflict with many environmental or social goals. McCormick (2001:117) for instance, points out that there are only 'seven pan-European environmental NGOs with offices in Brussels, with a combined full-time staff of about 30 people'. It would appear that the debate on climate change has been instrumental in highlighting these disparities, which have become more apparent as scientific research has become more convincing and trade and business organizations have become more aware of their need to set the agenda in terms of policy construction.

6. Climate change, the EU, and the ascendancy of business interests

While the process of European integration has been characterized by the input and influence of organized interests, McLaughlin, Jordan and Maloney (1993) have argued that, from around the period of the Single European Act – where European integration become much more closely aligned with completing the single market – it is the trade and business lobby that has held sway in areas of EU ‘high politics’. Thus environmental concerns, and also social issues, have been viewed primarily in terms of internalizing costs within a market framework in which business and industry has been influential in providing an overarching political framework for ‘solutions’. The most recent EU energy policy green and white papers for instance, provide the clear signal that deregulation and privatization are to provide the primary framework through which the often conflicting aims of security of supply *and* climate change can be addressed simultaneously.

Balanya *et al* (2000) have pointed to the discrepancies in this argument, suggesting that while the ongoing liberalization of electricity and gas markets in the EU has been instrumental in lowering prices for consumers, liberalization has also had the effect of increasing energy consumption through the ‘rebound effect’. It has also left Europe’s energy infrastructure intact and embedded within increasing fossil fuel use. This has consequently pushed up CO₂ emissions in the European energy sector. Merger activity in gas and electricity markets over the last ten years has served to highlight the influence of multinationals on EU energy policy for instance where E.ON, Gazprom, ENEL, RWE, Ruhrgas and the Dutch company Vattenfall have been able to consolidate market positions between themselves, despite the best intentions of EU competition rules. Again, the creation of the Trans-European Networks has been viewed by many as a trading network that will do little to reduce rising CO₂ emissions in the transport sector.

As Balanya *et al* (2000) point out, the oil, automobile, mining and chemical industries were all active from the early 1990s in pushing for market-based solutions to climate change as opposed to more direct government regulation. The debate over introducing a carbon tax has been one of a number of concerns to have been voiced by a range of stakeholders, particularly over the last decade. These have included suggestions regarding the possibilities for more locally initiated energy distribution systems and also moving government subsidies away from fossil fuel generation. However, open debates over what kinds of actions need to be encouraged in order to facilitate the move to a low carbon future are more often than not subsumed in favour of a more industry-led approach which critics argue often conflict with environmental aims. Lohmann (2006) observes that the technological fix promised by carbon trading, can be viewed as an attempt to appease the longer-term aims of companies to continue to make profits rather than a direct attempt to penalize the worst polluters. As he has pointed out, while one of the arguments proposed by advocates of carbon trading was that similarly modelled policies augmented around ozone depletion and acid rain – both in the EU and in the US – is that they were particularly well suited to the technological fixes supplied by business and industry and were amenable to ‘isolated’ policy aims. Importantly however, as he suggests,

unlike climate change: acid rain policy and initiatives that were put in place to address ozone pollution: 'didn't require long-term restructuring of the energy sectors that are so central to industrialized economies' (2006:46).

6.1 Negotiating consent: informal business coalitions and alliances

In order to try to counteract the influence of business on climate change policy at EU level, many environmental NGOs have tried to gain influence over climate change policy by engaging in coalitions and alliances *with* trade and business interests. For instance, as Coen (2005:209) has pointed out: Climate Network Europe has itself become an insider group in Brussels and is regularly consulted by the European Commission on climate change. As he argues however: to do this, Climate Network Europe has had to form alliances with business lobbies such as the European Association for the Conservation of Energy and European Wind Energy Association to widen its appeal to decision makers' (2005:209). While this has led some critics to ask whether this is a case of business simply strengthening and embedding its case more effectively by drawing upon civil society groups (2005:209) suggests that NGOs have begun to see this kind of alliance formation as a way in which to reduce policy conflict, to gain a foothold on proceedings, and to try and influence what he calls a 'win-win' situation and a 'key discursive foundation for a broad coalition of actors supporting an emerging climate compromise'.

The European Commission itself has been instrumental in encouraging these kinds of alliances/groupings. During the 1990s for instance, the EU's Environment Action Programme brought together partnership collaborations between NGOs (the WWF and the European Environmental Bureau); business (Unilever and Proctor and Gamble); and also trade unions (European Trades Union Congress) (Greenwood, 2003). Therefore, as Levy (2005:93) has argued, rather than directly challenging the activities and political power of trade and business organisations, many NGOs have attempted to circumnavigate this influence on the premise that they might provide influence from the inside in 'softening' the economic approach; for example by drawing attention to the importance of addressing the 'precautionary principle' in climate change policy.

7. The EU Emissions Trading Scheme

Lohmann (2006) makes the point that there has been little input from environmental NGOs, and wider stakeholder debate, within the *three* EU coordinated climate change policies which were adopted from the Kyoto agreement. While the European Union Emissions Trading Scheme (EU ETS) remains difficult to judge as a success or a failure in terms of reaching current and future EU targets, environmental groups including Friends of the Earth (FoE) and the World Wide Fund for Nature (WWF) have raised a number of concerns about its effectiveness in addressing climate change. FoE (2009:20) have argued for instance that 'under the Kyoto Protocol, the original 15 EU member states are expected to reduce their greenhouse gas emissions by eight per cent. In reality, if the UK and Germany are excluded, emissions in the EU 15 increased by twelve per cent between 1990 and 2005'.

There have also been criticisms that firms often gained financially from the permit allocation system with little environmental impact made – particularly in Phase I of the programme. As Reyes (2008:1) has argued, in the First Phase of the EU ETS ‘more than 90% of the heavy industrial plants covered by the scheme emitted less than their quota of free credits. The market value of the credits collapsed, pollution continued apace, and the companies involved made billions in windfall profits by passing on imagined “costs” to consumers’. While allocations and caps have been set more stringently for the Second Phase of the 2008-12 phase of the EU ETS, carbon prices continue to fluctuate and have so far been unable to establish an effective investment structure through which to address the growing urgency of the debate. While these criticisms have been addressed to a degree in the Second Phase of the EU ETS, FoE suggest that:

Despite a lowering of the cap in phase II, permits have still been over-allocated. Combined with the recent contraction of European industry, this resulted in the price of EU allowances falling to record lows for phase II, down to €8 on 12th February 2009 – a fall of more than 70 per cent from the peak on 1st July 2008 (Friends of the Earth, 2009:20).

Lockwood (2007) suggests that heavy lobbying by industry over Member state’s National Action Plans (NAPs) originally set the framework for the design of the EU ETS and he argues that the principal reason for this was to ensure that European industry remained competitive in the global market. He makes the case therefore that the market-driven ethos of the EU ETS fails to provide sufficient incentives for firms to innovate and drive an effective market in carbon. There has also been criticism that the EU ETS does not yet embrace growing pollution problems in air travel and transport although policy makers have argued that this is due to be addressed in Phase Three of the programme.

There are good arguments to suggest therefore, that the structure of the EU ETS markedly illustrates some of the limitations of market led solutions to the problems posed by climate change. Perhaps one of the biggest problems is related to the lack of a long-term price through which to aid investment decisions still hampers real progress in technological innovation – arguably the turn-key to a successful EU ETS. Governments have so far been unwilling to intervene directly in this way – particularly in energy markets where ensuring security of supply security is almost always the political option that is taken – and the volatility of carbon prices have proved to be barriers to changing ‘business-as-usual’ scenarios. Again, environmental NGOs have been vociferous in pointing out that the EU ETS has so far been a disappointment in driving the degree of change which will be necessary in transforming the so-called ‘EU bubble’ into a low-carbon economy. As the WWF point out, in order to begin to lower the levels of CO₂ emissions from the sectors which have been targeted:

The European carbon market needs to impose tougher pollution limits. Only with supply scarcity of allowances, will this market deliver results. Also must allowances are now allocated for free to companies (“grandfathering”)

reducing incentives to cut climate pollution. WWF believes that the key requirements for a functional scheme are the pan-European harmonization of allocation to avoid unfair competition between companies from different countries. This should be coupled with full auctioning of pollution rights with the revenues to be reinvested in climate protection and clean energy development (WWF, 2007:2).

The WWF and FoE have also suggested that the so-called 'flexibility mechanisms' that were agreed to supplement the EU ETS – the Clean Development Mechanism (CDM) and the Joint Implementation Device – have also been designed as ways in which business and industry have been able to avoid direct government regulation on polluting activities and to pass on the cost of continuing with a business-as-usual approach. Bohringer and Finus (2005) argue that one of the main problems with the CDM for instance is that it is often difficult to gauge whether projects are likely to make any difference to emissions reductions that would have occurred without this participation. They suggest the Kyoto monitoring mechanisms need extensive review in order to address this problem where commitment to this kind of reduction has too often been viewed as an easier option than reducing carbon emissions. Henson (2006) goes further than this in arguing that in real terms, the CDM may simply be an instrument that serves to legitimize developed nations polluting legacy, encouraging them to simply buy their way out of any commitment to reduce greenhouse gas emissions. Again, the WWF argue that in order to direct global policy on climate change, CDM projects in the future must move away from subsidizing projects that in themselves contribute either directly or indirectly to carbon emissions such as those involving coal, large-scale hydropower.

8. Conclusion

This paper has considered the ways and the extent to which the development of EU policy has provided a political forum for the influence and activities of different agencies from business, civil society and formal political agencies in shaping environmental policy. Outlining the argument originally developed in Gramsci's concept of hegemony, it was pointed out that the historical development of European integration has invariably been about the representation of diverse interests, whereby policy is shaped by different actors according to negotiations between different agendas, diverse stakeholders and different relations of power in reaching the degree of consensus on policy design and implementation.

It was argued that the development of climate change policy has seen the political pendulum swing towards the influence of trade and business lobbies in driving this agenda in conjunction with the aims of the single market. It was suggested that while EU policy on the environment was originally something of an 'opportunity enabler' – encouraging the NGO community in particular – to provide political influence over a range of environmental issues at European level, the paper suggested that the climate change agenda has served to illustrate the urgency of the political and economic stakes involved with restructuring business-as-usual energy use. In this regard it was argued that, while the advent of the single European

market in 1985 coincided with the beginnings of a more substantial environmental policy at European level – one which hypothetically seemed to have provided the impetus for a more open debate on issues such as climate change – in reality, the more recent environmental agenda at European level has been dominated by a market-led approach which has subsumed, or marginalized the NGO community.

The paper pointed out that while the high political status of climate change at EU level has meant that NGOs often lack direct influence, they remain influential in raising concerns, for instance over the current structure of the EU ETS. The WWF, for instance, has been vociferous in drawing attention to some of the problems with the EU's 'cap and trade' system, notably business influence over weak targets; over-allocation of permits; some of the dubious practices around 'offsetting'; and a failure to incorporate the growth in major polluting areas such as air travel. It was argued that one of the ways in which NGOs are attempting to gain more influence on climate change policy is through 'win-win' alliance partnerships, in which they eschew an adversarial position in favour of a softer approach through trying to 'steer' business influence on climate change policy.

A post-Kyoto structure for the ETS has yet to be agreed but the EU has continued to outline its intentions to lead on climate change – made clear in more recent plans for a longer-term 20/20/20 low carbon strategy. Whether the EU can become a more open forum in encouraging a broader dialogue on climate solutions is unclear but, as Gramsci originally argued, getting to consensus or forging new levels of legitimacy in politics and policy is not something rigid and immobile, but is itself in constant flux and the influence of different agendas and organizations will shift accordingly. As Gramsci pointed out, the agencies and interests who are most influential in setting political agendas must work to continually re-establish legitimacy and cohesiveness in the face of counter-discourses which often challenge or undermine this hegemony. The paper has argued that the climate change debate in the EU has been particularly illustrative of this idea where, although business interests have been influential in setting a particular policy design in motion – and legitimating this course of action through the power of corporate lobbying – the shifting terrain of climate science, media, and the concerns of civil society over policy effectiveness, mean that climate solutions can never remain 'path dependent' and in the grip of one group of actors. Consequently, as Gramsci argued, policy hegemony is never squared and remains open to contention.

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