

# German Interests and Priorities in European Environmental Policy

Helge Jörgens / Barbara Saerbeck

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## Abstract

This fourth paper in the **German European Policy Series** studies the typical interests which shape Germany's environmental foreign policy in Europe: victim, polluter and third-party interests as well as the state's interest in a stronger role in international politics and its interest in shaping policy within the European Union. It demonstrates that Germany's interests are diverse and characterised by interactions between the national and European policy levels, and how the country plays a particularly active role in European and international environmental policy when different types of foreign policy interests are combined. The paper concludes that Germany will likely extend its international activities in this area, both within the European Union and beyond in global negotiations, in the medium to long term.

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# German Interests and Priorities in European Environmental Policy

Helge Jörgens / Barbara Saerbeck

Since the 1960s, environmental policy has become a key focus of German national policy. Almost all industrialised countries have created national ministries for the environment and other bodies, and passed numerous environmental laws since the early 1970s<sup>1</sup> In Germany, the Federal Government's first environmental programme in 1971 and the creation of the *Umweltbundesamt* (German Environment Agency) in 1974 form the foundations of the country's current environmental policy.<sup>2</sup>

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*“Today, effective environmental policy can only be thought of in terms of a combination of domestic and foreign policy.”*

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Initially, environmental policy was first and foremost a branch of domestic policy. As, from the early 1980s onwards, awareness of cross-border environmental impacts (e.g. forest dieback) grew, environmental policy increasingly became an integral part of foreign policy.<sup>3</sup> Today, effective environmental policy can only be thought of in terms of a combination of domestic and foreign policy. On the one hand, nation states are ever more reliant on cooperation with other countries in the implementation of their environmental policy aims. On the other hand, only countries that adopt ambitious domestic environmental protection programmes can play a leading role in international environmental policy. This interdependence between do-

mestic and foreign policy is particularly pronounced in the European Union's environmental policy. This is due to both the geographic proximity of member states to one another and the fact that national environmental laws are often harmonised across Europe—now approximately 80 per cent of environmental laws in force in Germany are based on European Union legislation.<sup>4</sup>

In the following, first a short overview of the development of European environmental policy will be provided. Then, the role of Germany in European environmental politics since the early 1980s will be briefly outlined. Building upon this, five types of German environmental policy interests in European environmental politics will be distinguished and illustrated with concrete examples.

## 1. European environmental policy in flux

The development of European environmental policy can be divided into several phases. In the 1970s and 80s, growing public awareness led to an increased debate on environmental topics at the European level. The adoption of the Single European Act in 1987 officially anchored environmental targets, principles and decision-making procedures in the Treaty establishing the European Community.<sup>5</sup> The European Union's scope for environmental action has thereafter con-

1 See Per-Olof Busch/Helge Jörgens: International Patterns of Environmental Policy Change and Convergence, in: *European Environment* 2/2015, pp. 80-101.

2 See Edda Müller: Sozial-liberale Umweltpolitik. Von der Karriere eines neuen Politikbereichs, in: *Aus Politik und Zeitgeschichte* 47-48/1989, pp. 3-15.

3 See Volker von Prittzwitz: *Umweltaußenpolitik. Grenzüberschreitende Luftverschmutzung in Europa*, Frankfurt am Main 1984.

4 See Bundesministerium für Umwelt, Naturschutz, Bau und Reaktorsicherheit: *Kurzinfo Europa und Umwelt*, 30.04.2015, available at: <http://www.bmub.bund.de/themen/europa-international/europa-und-umwelt/kurzinfo/> (last accessed: 12.01.2016).

5 See Christiane Beuermann/Jill Jäger: Climate Change Politics in Germany: How Long will Any Double Dividend Last?, in: Timothy O'Riordan/Jill Jäger (eds.): *The Politics of Climate Change: A European Perspective*, London 1996, pp. 186-227, here p. 194.

tinued to be extended—whether it be through the establishment of the European Environment Agency in 1990, the continuing adoption of new environmental programmes, or its anchoring in the Treaties of Maastricht (1993) and Amsterdam (1997).<sup>6</sup> International impetus via United Nations (UN) conventions on the environment has intensified its impact (e.g. Agenda 21).

Since the 1970s, the European bodies have enacted more than 300 acts of law for the protection of the environment under Art. 191 and 192 of the Treaty on the Functioning of the European Union (TFEU). Today, the European Union’s environmental policy features a multiplicity of different principles and instruments. If European environmental policy initially concentrated on the enactment of individual (technical) measures, it is now increasingly taking a holistic and integrated approach, focusing on the synergies between economic, social and ecological goals. Based on the polluter pays, prevention and precautionary principles the European Union adopted Environment Action Programmes (EAPs), which determine the framework and strategic guidelines of European environmental policy.

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The 6<sup>th</sup> EAP “Our future, Our choice”, adopted in 2002 and in place until 2012, named four key areas, which the European Union paid particular focus on in its environmental policy during this period: (1) combating cli-

mate change, including the reduction of greenhouse gas emissions, (2) protecting nature and biodiversity, (3) improving the environment, health and quality of life (measures which included tackling noise pollution and improving air quality) and (4) sustainable use of natural resources and management of wastes.<sup>7</sup> The 7<sup>th</sup> EAP (adopted in 2013 and in place until 2020) largely reaffirmed these key areas and embedded them in a strategic vision for ecologically sustainable growth (‘green growth’) in Europe.<sup>8</sup> In addition to the thematic priorities, emphasis is also placed on the promotion of innovative technologies in the areas of environmental protection and efficiency, and on Europe’s leading role in international environmental policy.

In general, a continual expansion of the European Union’s environmental policy competencies and consequently an increasing alignment of national environmental standards and laws can be observed since the 1970s.<sup>9</sup> On the whole, this alignment happened at a high level of environmental protection that was largely determined by national environmental policy forerunners.<sup>10</sup> Thus, at least until the end of the 2000s, the European multi-level system acted as an ‘accelerator’ of national environmental policy.<sup>11</sup>

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7 See Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme, in: Official Journal of the European Communities, No. L 242, 10 September 2002, pp. 1-15.

8 See Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 ‘Living well, within the limits of our planet’, in: Official Journal of the EU, No. L 354, 28 December 2013, pp. 171-200.

9 See Katharina Holzinger/Christoph Knill/Bas Arts (eds.): *Environmental Policy Convergence in Europe. The Impact of International Institutions and Trade*, Cambridge 2008.

10 See Per-Olof Busch/Helge Jörgens: *The international sources of policy convergence: explaining the spread of environmental policy innovations*, in: *Journal of European Public Policy* 5/2005, pp. 1-25; Helge Jörgens/Andrea Lenschow/Duncan Liefferink (eds.): *Understanding Environmental Policy Convergence: The Power of Words, Rules and Money*, Cambridge 2014.

11 See Martin Jänicke: *Multi-Level Reinforcement in Climate Governance*, in: Achim Brunnengräber/Maria Rosaria Di Nucci (eds.): *Im Hürdenlauf zur Energiewende. Von Transformationen, Reformen und Innovationen*, Wiesbaden 2014, pp. 35-47; Martin Jänicke/Rainer Quitzow: *Multi-level Reinforcement in European Climate and Energy Governance: Mobilizing Economic Interests at the Sub-national Levels*, in: *Environmental Policy and Governance*, forthcoming.

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6 See Christoph Knill/Duncan Liefferink: *Environmental politics in the European Union. Policy-making, implementation and patterns of multi-level governance*, Manchester 2007, pp. 20-21.

## 2. Germany's role in European and international environmental policy

By no later than the beginning of the 1980s, Germany had developed into a forerunner in European and international environmental policy. In this role, Germany focused above all on a technology-based regulatory approach, aimed at reducing environmental impacts at their source. For this purpose, detailed technical measures to limit emissions based on the latest technology were made mandatory via laws or regulations.<sup>12</sup> From the beginning onwards, Germany tried not only to follow its regulatory approach alone, but also to transfer it to other European states and the entire European level. On the one hand, tighter national environmental policy requirements led to an increase in the production costs for German companies in the short and medium term. As long as weaker environmental standards applied in other member states, Germany could face a disadvantage vis-à-vis European competition. Therefore, export-oriented companies in particular pressed the German Federal Government to strengthen its lobbying for an alignment of European environmental standards with Germany's advanced regulatory level.<sup>13</sup> On the other hand, a strong environmental protection industry developed early in Germany, which would become an important economic factor and motor for the creation of new jobs by the 1990s at the latest.<sup>14</sup> These

industries also pressed for a Europeanisation of German technology-based environmental standards, as it promised a major widening of the markets for German environmental protection technology. An example of the Europeanisation of the German approach to emissions control was the adoption of the *Großfeuerungsanlagenrichtlinie* (Large Combustion Plants Directive)<sup>15</sup> in 1988, which—with its far-reaching and technology-based limits for the air pollutants sulphur dioxide and nitrogen oxide—largely corresponded with the model of the *Großfeuerungsanlagenverordnung* (Large Combustion Plants Regulation) which had already been passed in Germany back in 1983.<sup>16</sup>

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However, since the mid-1990s, Germany has been less and less successful in defending its regulatory approach against competing ones in the key areas of environmental protection, such as water conservation, waste management, and the control of air pollution and chemicals. An example of this was the Directive on Integrated Pollution Prevention and Control (IPPC Directive)<sup>17</sup> which was adopted in 1996. Germany favoured the approach of stipulating collective technology-based emission limits for industrial plants. This was however superseded by procedural rules, which largely left the decision regarding the implementation of environmental standards up to local regulatory au-

12 See Martin Jänicke/Helge Jörgens/Kirsten Jörgensen/Ralf Nordbeck: Germany, in: Organization for Economic Co-operation and Development (ed.): Governance for Sustainable Development. Five OECD Case Studies, Paris 2002, pp.113-153, here p. 118; Martin Jänicke/Helmut Weidner: Germany, in: Martin Jänicke/Helmut Weidner (eds.): National Environmental Policies. A Comparative Study of Capacity-Building, Berlin 1997, pp.133-155.

13 See Rüdiger K. W. Wurzel: Germany. From Environmental Leadership to Partial Mismatch, in: Andrew Jordan/Duncan Lieferink (eds.): Environmental Policy in Europe. The Europeanization of national environmental policy, London 2004, pp. 92-108, here p. 96.

14 See Birgit Gehrke/Ulrich Schasse/Katrin Ostertag: Wirtschaftsfaktor Umweltschutz. Produktion – Außenhandel – Forschung – Patente: Die Leistungen der Umweltschutzwirtschaft in Deutschland, Umweltbundesamt: Umwelt, Innovation, Beschäftigung 1/2014; Jänicke/Weidner: Germany, 1997.

15 Council Directive 88/609/EEC of 24 November 1988 on the limitation of emissions of certain pollutants into the air from large combustion plants, in: Official Journal of the European Communities, No. L 336, 7 December 1988, pp. 1-13.

16 See Christoph Knill: Europäische Umweltpolitik. Steuerungsprobleme und Regulierungsmuster im Mehrebenensystem, 2nd edition, Wiesbaden 2008, pp. 141-146.

17 Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control, in: Official Journal of the European Communities, No. L 257, 10 October 1996, pp. 26-40.

thorities. The local authorities' discretionary powers were additionally strengthened through the integrated consideration of pollution of the air, water and soil and generation of waste.<sup>18</sup>

Today, Germany belongs among the world's forerunners in, above all, climate policy and the promotion of renewable energy; its strategy in doing so is two-fold. On the one hand, it wants to trigger copycat behaviour via its model behaviour. On the other hand, Germany campaigns at the EU level (and globally in terms of climate protection) for a continued raising of the international regulatory level, with the aim of a greater international integration of German measures.

### 3. Fundamental types of German interests in environmental foreign policy

The previous section has shown that German interests in European environmental policy are diverse and characterised by interactions between the national and European policy levels. In this section, five typical interests which shape Germany's environmental foreign policy in Europe will be distinguished.

In his work on environmental foreign policy, Prittitz discerns three types of foreign policy interests in environmental protection, which also apply to Germany: victim, polluter and third-party interests.<sup>19</sup> Victim interests aim to minimise environmental problems originating outside the borders of one's own country. Polluter interests play a role if national economic sectors

are particularly affected by European environmental protection regulations. Governments can then try to minimise the costs of environmental protection for their own economy by impeding far-reaching European or international regulations. In contrast, third-party interests focus on the positive economic effects of the export of national environmental protection technologies. Here, Germany has an interest in a Europe-wide raising of technology-based environmental standards in order to open up new markets for its environmental protection industry.<sup>20</sup>

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*“Environmental and climate protection offers Germany a field in which it can assume a leadership role internationally and at the same time present itself as an advocate of global good.”*

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In addition to the three interests outlined above, there is a fourth interest which features in the specific institutional context of the European Union, where national environmental protection laws and measures are often harmonised across Europe. Here, EU member states aim at “impos[ing] their regulatory regimes, cultures, and practices at the European level” in order to “preserve national problem-solving traditions and institutions – hence minimizing the cost of legal adjustment to European legislation”.<sup>21</sup> Germany, thus, has an interest in actively shaping EU policies in the environmental field. Fifth, Germany has, not least because of its history, a fundamental interest in being perceived positively by others. Environmental and climate protection offers Germany a field in which it

18 See Christian Hey: *Zukunftsfähigkeit und Komplexität: Institutionelle Innovationen in der EU*, in: Volker von Prittitz (ed.): *Institutionelle Arrangements in der Umweltpolitik. Zukunftsfähigkeit durch innovative Verfahrenskombinationen?*, Opladen 2000, pp. 85-100, here pp. 91-94.

19 See Prittitz: *Umweltaußenpolitik*, 1984; Volker von Prittitz: *Several Approaches to the Analysis of International Environmental Policy*, in: Wolfgang Rüdiger (ed.): *Environmental Policy*, Cheltenham 1999, pp. 38-70.

20 See Martin Jänicke: *German Climate Change Policy: Political and Economic Leadership*, in: James Connelly/Rüdiger K. W. Wurzel (eds.): *The European Union as a Leader in International Climate Change Politics*, London 2011, pp. 129-146, here p. 142.

21 Adrienne Héritier/Christoph Knill/Susanne Mingers: *Ringling the Changes in Europe. Regulatory Competition and the Transformation of the State: Britain, France, Germany*, Berlin 1996, p. 2.



can assume a leadership role internationally and at the same time present itself as an advocate of global good. In the following, the five types of foreign policy interests will be briefly outlined and illustrated with concrete examples.<sup>22</sup>

## 1. Victim interests

Victim interests aim at avoiding environmental damage, the causes of which lie outside of one's own national border. Such cross-border environmental damage can take many different forms. In rivers that flow across borders, the pollution caused by upstream countries can severely compromise the water quality and thereby its usage by countries downstream. For example, after a fire at the Swiss chemical company Sandoz's plant in 1986, poisonous substances in the Rhine river led to the death of fish in France, Germany and the Netherlands.<sup>23</sup> Following the accident, Germany campaigned strongly for a strengthening of environmental cooperation between countries along the Rhine river. This led to the adoption of the Rhine Action Programme and the extension of the International Commission for the Protection of the Rhine's competencies and the reinforcing of its goals and measures.<sup>24</sup>

22 Falkner suggests a different typology, distinguishing between "*inside-out* explanations that focus on the role of domestic factors in shaping foreign policy; and *outside-in* explanations that reverse the domestic logic and trace a state's stance in global environmental politics back to its position within the structure of the international system"; Robert Falkner: *The Nation-State, International Society, and the Global Environment*, in: Robert Falkner (ed.): *The Handbook of Global Climate and Environment Policy*, Malden 2013, pp. 251-267, here p. 254. While it is beyond doubt that international factors such as global environmental norms (see Steven Bernstein: *Global Environmental Norms*, in: Robert Falkner (ed.): *The Handbook of Global Climate and Environment Policy*, Malden 2013, pp. 127-145) or processes of policy diffusion (see Per-Olof Busch/Helge Jörgens: *Governance by Diffusion: Exploring a New Mechanism of International Policy Coordination*, in: James Meadowcroft/Oluf Langhelle/Audun Ruud (eds.): *Governance, Democracy and Sustainable Development. Moving Beyond the Impasse*, Cheltenham 2012, pp. 221-248) have an impact on how states define their foreign policy interests, the focus of this article will be mainly on the inside-out dimension of Germany's foreign policy interests in the environmental field.

23 See Stefan Lindemann: *Understanding Water Regime Formation – A Research Framework with Lessons from Europe*, in: *Global Environmental Politics* 4/2008, pp. 117-140.

24 See Thomas Bernauer/Peter Moser: *Reducing Pollution of the River Rhine: The Influence of International Cooperation*, in: *The Journal of Environment & Development* 4/1996, pp. 389-415.

Possibly the most prominent example of environmental damage caused externally is the forest dieback in Germany, which stemmed in large part from large-scale cross-border air pollution from other European countries. As a result of this forest dieback, Germany changed from being a 'foot dragger' to a forerunner in international clean air policy and in particular in the reduction of emissions of sulphur dioxide from power stations and industrial plants. Germany also campaigned successfully for the reinvigoration and tightening of the 1979 Convention on Long-Range Transboundary Air Pollution.<sup>25</sup> Thus, in both cases, the fact that Germany had been negatively impacted by pollution from other countries led to a significant intensification of its environmental protection efforts.

## 2. Polluter interests

Polluter interests focus on avoiding too high of costs to one's own economy due to environmental protection measures, resulting from European or international environmental policy provisions. As Germany was, by the 1980s at the latest, one of the most important forerunners in ambitious European environmental policy,<sup>26</sup> this type of foreign policy interest played a less important role for the country. Nevertheless, there were cases, above all in the automotive production industry, in which the Federal Government tried to block far-reaching European regulations or at least delay their coming into effect. One prominent example was the planned adoption of the End-of-Life Vehicles Directive in 1999. After the governments of all the then member states, including Germany, had signalled their support for the Austrian Council presidency's compromise proposal, Germany unexpectedly withdrew its support prior to the first Environmental Council under Germany's presidency of the Council

25 See Jørgen Wettstad: *Reducing long-range transport of air pollutants in Europe*, in: Steinar Andresen/Elin L. Boasson/Geir Hønneland (eds.): *International Environmental Agreements: An Introduction*, London 2012, pp. 23-37.

26 See Jänicke/Weidner: *Germany, 1997*; Wurzel: *Germany, 2004*.



of the EU. After ‘major lobbying’ by the German car industry, Chancellor Gerhard Schröder instructed his Minister for the Environment Jürgen Trittin to block the planned decision. Yet Germany’s attempt to protect its own economy from high environmental protection costs was ultimately unsuccessful due to the introduction of qualified majority voting in the Council of the European Union in this area. The adoption of the End-of-Life Vehicles Directive was, however, delayed by more than one year.<sup>27</sup>

A second example concerns the establishment of Europe-wide CO<sub>2</sub> limits in the automotive industry. After the failure of a voluntary agreement between the European Commission and the European Automobile Manufacturers’ Association (ACEA) in 2007, the Commission placed increased focus on the setting of binding limits of the average CO<sub>2</sub> emissions of a manufacturer’s entire fleet of cars. This approach principally benefits manufacturers whose fleet is dominated by small vehicles rather than by larger and heavier ones.<sup>28</sup> German car manufacturers thus, from the outset, expressed clear opposition to this regulatory approach and demanded a number of revisions, in particular reductions to the limits for producers of larger vehicles and multiple deductions (so-called ‘super credits’) for low-emission electric or hybrid vehicles in the calculation of the fleet’s average emissions.<sup>29</sup> Due to the great economic importance of the automotive industry in Germany and also major lobbying by car manufacturers and their associations, the German Federal Government stoutly defended the interests of German car manufacturers in the European negotiations against

the position taken by the majority of the member states. In doing so, the Federal Government succeeded in, amongst other things, delaying the adoption of the limits as well as in establishing a bonus system, which meant that low-emission vehicles were disproportionately favoured in a fleet’s emissions’ calculation, as well as in establishing a ‘limit value curve’ which allowed higher CO<sub>2</sub> emissions levels for producers of heavier vehicles. Sternkopf and Nowak refer in this context to a “Europeanisation of the German car industry’s interests”,<sup>30</sup> i.e. the transferring of the German car industry’s interests to the European level.

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The cases in which Germany acts as a foot dragger in European environmental policy are mostly the exception rather than the rule. Overall, Germany tries to make its economy more competitive internationally by campaigning for uniform Europe-wide environmental protection and energy standards. The example of the creation of a common European energy policy illustrates that Germany, in doing so, does not lose sight of its national interests. While Germany was already calling for the embedding of energy policy in a wider international context (also beyond the European Union) in the early 1990s, other countries opposed binding regulations.<sup>31</sup> As it became apparent that Germany’s national practices could not be realised at the European level, the country began to constructively shape discussions on rules for the European Union electricity market and to defend its interests effectively and independently. The directive resulting from

27 See Petra Holtrup Mostert: Die Umweltpolitik Deutschlands: Auf dem Boden der Realität, in: Thomas Jäger/Alexander Höse/Kai Oppermann (eds.): Deutsche Außenpolitik. Sicherheit, Wohlfahrt, Institutionen und Normen, 2nd edition, Wiesbaden 2011, pp. 394-413, here p. 409; Rüdiger K. W. Wurzel: Flying into unexpected turbulence: The German EU presidency in the environmental field, in: German Politics 3/2000, pp. 23-42, here pp. 30-35.

28 See German Advisory Council on the Environment: Environmental Report 2008. Environmental Protection in the Shadow of Climate Change, Berlin 2008, pp. 99-101.

29 See Benjamin Sternkopf/Felix Nowak: Lobbying: Zum Verhältnis von Wirtschaftsinteressen und Verkehrspolitik, in: Oliver Schwedes/Weert Canzler/Andreas Knie (eds.): Handbuch Verkehrspolitik, 2nd edition, Wiesbaden 2016, pp. 381-399, here pp. 389-394.

30 Ibidem, p. 393; own translation.

31 See Susanne K. Schmidt: Liberalisierung in Europa. Die Rolle der Europäischen Kommission, Frankfurt am Main 1998, pp. 194-195.

these discussions,<sup>32</sup> which came into effect on 19 December 1996 and concerned common rules for the internal electricity market, envisaged, amongst others, a gradual process towards full liberalisation of the market. As in the course of the simultaneous amendment of the German *Energiewirtschaftsgesetz* (Energy Industry Act) a unified national position in favour of a full liberalisation of the market in Europe had evolved, the directive was already implemented in Germany in 2000. In contrast, the degree of market liberalisation varied greatly between the member states and the European average was just 69 percent.<sup>33</sup> In order to achieve a level playing field for its own electricity companies, Germany campaigned in the European Council for a full liberalisation of European electricity markets. At the same time, Germany knew how to take advantage of exemptions, which were granted by the original directive due to security and sociopolitical concerns. Thus, Germany's implementation of the directive was criticised by the European Commission and in particular by foreign companies and consumer associations because, in their eyes, it made it difficult for new players in the market to access the grid due to the lack of transparent conditions and excessive grid charges, thereby allowing individual companies to maintain their monopoly.<sup>34</sup> The European Commission's call for the ownership unbundling of the grid and the establishment of an independent regulatory body was rejected by the Federal Government.

At the European level, there was a realisation that the directive outlined above would not suffice to bring about an actual liberalisation of the electricity sector. During the negotiations for the so-called Acceleration

Directive,<sup>35</sup> concerning common rules for the internal electricity market, and the repealing of Directive 96/92/EC, German actors, via skilful manoeuvring, succeeded initially in warding off disadvantages for the German economy; in doing so the regulatory body's competencies and the exact conditions of the unbundling were severely limited.

Overall, in Holtrup Mostert's words, one of the major aims of German environmental foreign policy is "to secure the competitiveness of the German economy via the cross-border harmonisation of environmental legal norms".<sup>36</sup> Falkner describes the underlying logic, which he observes also in other highly regulated countries, as follows:

“ Faced with strong regulatory pressure at home and international competition from countries with low environmental standards, some business groups [opt] for a strategy of regulatory export to create a global level playing field or gain a first mover advantage”.<sup>37</sup>

On the whole, one can say that Germany campaigns for harmonisation at a high level of environmental protection.

### 3. Third-party interests

Third-party interests in environmental policy take the form of "securing the greatest benefit for oneself in the process of environmental policy problem solving, so as to 'profit' from the third-party role".<sup>38</sup> The most important third-party interests in Germany are those of the environmental protection industry. This sector has experienced a high rate of growth since the 1970s and has now become one of the most important in-

32 Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity, in: Official Journal of the European Communities, No. L 27, 30 January 1997, pp. 20-29.

33 See European Commission: Commission Staff Working Paper. First benchmarking report on the implementation of the internal electricity and gas market. Brussels, 3.12.2001, SEC (2001) 1957.

34 See Thomas Renz: Vom Monopol zum Wettbewerb. Die Liberalisierung der deutschen Stromwirtschaft, Opladen 2001, pp. 173-176.

35 Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC, in: Official Journal of the European Union, No. L 176, 15 July 2003, pp. 37-55.

36 Holtrup Mostert: Die Umweltaußenpolitik Deutschlands, 2011, p. 398; own translation.

37 Falkner: The Nation-State, International Society, and the Global Environment, 2013, p. 256.

38 Volker von Prittitz: Das Katastrophen-Paradox. Elemente einer Theorie der Umweltpolitik, Opladen 1990, pp. 116-117, own translation.

dustries in Germany. The share of Germany's overall gross domestic product (GDP) made up by products, processes and services from the field of environmental technology and resource efficiency was 13 percent in 2013. An increase reaching over 20 percent of GDP is expected by 2025. The effects on employment are also considerable. In 2013, some 1.5 million workers were employed by environmental technology companies.<sup>39</sup>

The high degree of regulation and the technology focus of German environmental policy have promoted the emergence of this sector. Now however, exports are of particular importance for its growth. A recent study put the growth of the industry in Germany between 1995 and 2005 down "almost entirely to its export success".<sup>40</sup> Between 2002 and 2011, Germany was the world's leading exporter of environmental protection goods and resource efficiency technologies, ahead of even the US and China, with an average share of some 15 percent of total world trade.<sup>41</sup>

Against this backdrop, one of Germany's central interests in environmental policy is the broadening of the market for German environmental protection goods, processes and services. This aim can be best achieved through a Europe-wide raising of environmental standards. There is still great potential for growth, in particular in the fields of climate protection and renewable energy,<sup>42</sup> but also in the more traditional areas of water protection and waste management. Not least in view of the potential export market for environmental protection goods, Germany campaigns in the European Union and also internationally for emissions-related and technology-based measures and programmes. Against this backdrop, Germany has, for example, long spoken out against the use of the so-called flexible mechanisms of emissions trading, the

Clean Development Mechanism and Joint Implementation, in the negotiations on Europe's climate policy position.<sup>43</sup>

#### 4. Interest in shaping policy within the European Union

The increasing harmonisation of EU member states' environmental policies has led in recent decades to outright regulatory competition.<sup>44</sup> Member states compete to transfer their national regulatory approaches as far as possible to the European level, the aim being to influence the design of European environmental policies, so that their later implementation at the national level requires the least possible political, legal and administrative change.<sup>45</sup>

An example of this Europe-wide regulatory competition is the question of the choice of instruments to promote the generation of electricity from renewable energy sources. Germany was one of the first European states to introduce a priority feed-in tariff for wind and solar power in 1990. This instrument led to a rapid increase in renewable energy sources' share of national electricity generation to around 30 percent in 2016.<sup>46</sup> Other member states focused in contrast on the establishment of quotas for the share of electricity produced from renewable sources. Energy providers could meet these quotas through the purchase of tradeable certificates. The advantage of the feed-in tariff was that it allowed governments to extend electricity generation from renewable sources very quickly. As the feed-in tariff for 'green electricity' was however set at a high level for several years, it led to a significant increase in electricity prices in Germany and oth-

39 See Bundesministerium für Umwelt, Naturschutz, Bau und Reaktorsicherheit: *GreenTech made in Germany 4.0 – Umwelttechnologie-Atlas für Deutschland*, Berlin 2014, pp. 117-118.

40 Gehrke/Schasse/Ostertag: *Wirtschaftsfaktor Umweltschutz*, 2014, p. 29; own translation.

41 *Ibidem*, p. 151.

42 See Jänicke: *German Climate Change Policy*, 2011, p. 139.

43 See Holtrup Mostert: *Die Umweltaußenpolitik Deutschlands*, 2011, p. 401.

44 See Héritier/Knill/Mingers: *Ringling the Changes in Europe*, 1996.

45 See Adrienne Héritier/Dieter Kerwer/Christoph Knill/Dirk Lehmkuhl/Michael Teutsch/Anne-Cécile Douillet (eds.): *Differential Europe. The European Union Impact on National Policymaking*, Lanham 2001; Héritier/Knill/Mingers: *Ringling the Changes in Europe*, 1996; Knill: *Europäische Umweltpolitik*, 2008, pp. 132-136.

46 See Federal Ministry for Economic Affairs and Energy: *For a future of green energy*, available at: <http://www.bmwi.de/Redaktion/EN/Dossier/renewable-energy.html> (last accessed: 16.03.2017).

er countries. The quota instrument tended to lead to a slower increase in the share of green electricity, but did allow governments to better control the costs of the switch to green electricity.<sup>47</sup> A Europe-wide harmonisation of national support schemes in favour of quota models, as envisaged by the European Commission on numerous occasions since the end of the 1990s, would have forced Germany to completely redesign its laws and procedures related to the promotion of green electricity. In order to avoid these adjustments and instead retain its own well-established approach to support schemes, Germany repeatedly campaigned successfully against a harmonisation of national support schemes.

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*“The quota instrument tended to lead to a slower increase in the share of green electricity, but did allow governments to better control the costs of the switch to green electricity.”*

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The EU-wide harmonisation of national environmental policy regulations has, however, another impact, which can likewise influence the weighing up of member states' interests. This impact is linked to the intertwining of federal and state legislation and administration as well as the resulting wide array of potential opponents to environmental policy regulations, which is typical of German federalism.<sup>48</sup> Germany's federal structure forces policy-makers to formulate national policies within a highly differentiated

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47 See Per-Olof Busch/Helge Jörgens: Europeanization through Diffusion? Renewable Energy Policies and Alternative Sources for European Convergence, in: Francesc Morata/Israel Solorio Sandoval (eds.): *European Energy Policy: An Environmental Approach*, Cheltenham 2012, pp. 66-84; Israel Solorio/Eva Öller/Helge Jörgens: The German Energy Transition in the Context of the EU Renewable Energy Policy. A Reality Check!, in: Achim Brunnengräber/Maria Rosaria Di Nucci (eds.): *Im Hürdenlauf zur Energiewende. Von Transformationen, Reformen und Innovationen*, Wiesbaden 2014, pp. 189-200.

48 See Héritier/Knill/Mingers: *Ringling the Changes in Europe*, 1996, pp. 56-58; Fritz W. Scharpf: *Optionen des Föderalismus in Deutschland und Europa*, Frankfurt am Main 1994, p. 13.

discourse involving public authorities and private interest groups at multiple levels of government. In this institutional context, environmental and energy policy programmes risk being weakened or nullified by strong opposition. But once advanced environmental protection policies are adopted at the European level, it is more difficult for national opponents to these policies to question or even reverse them. A political institutional lock-in effect, which changes the political majority required to bring about setbacks at the national level, is the result.

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*“Germany's federal structure forces policy-makers to formulate national policies within a highly differentiated discourse involving public authorities and private interest groups at multiple levels of government.”*

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Against this backdrop, Jacob and Volkery argue that the EU level can be an arena “for the enforcement of environmental policy interests against opposition at the national level”.<sup>49</sup> Jänicke also stresses that high European environmental standards strengthen the position of the Ministry for the Environment within the Federal Government and in relation to state governments or industry associations, which are often pressing for a lowering of, or at least no further tightening of, German environmental standards.<sup>50</sup> One can assume that in the case of the creation of the common European energy policy outlined above, the Federal Government was not averse to the shifting of the discussion to the European level. This way, it could partly dodge domestic conflict between the opposition par-

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49 Klaus Jacob/Axel Volkery: Nichts Neues unter der Sonne? Zwischen Ideensuche und Entscheidungsblockade – die Umweltpolitik der Bundesregierung Schröder 2002-2005, in: Christoph Egle/Reimut Zohlnhöfer (eds.): *Ende des rot-grünen Projekts. Eine Bilanz der Regierung Schröder 2002-2005*, Wiesbaden 2007, pp. 431-452, here p. 439; own translation.

50 See Jänicke: *German Climate Change Policy*, 2011, p. 142.

ties, subnational entities, various ministries and private actors and pursue its interests at the European level.<sup>51</sup>

## 5. Interest in a stronger role in international politics

Finally, environmental and climate policy is a theme “in which Germany can shape its foreign policy profile, without having to give too much consideration to its political history or the circumstances of Germany’s division”.<sup>52</sup> Sprinz has observed Germany’s major effort since the 1980s to be viewed as a European and global forerunner in environmental protection.<sup>53</sup> Particularly within the European Union, Germany has up until now concentrated its leadership role primarily on so-called low politics, namely the foreign policy or international dimension of substantial sectoral policies. However, the increasing Europeanisation of environmental policy means for Germany:

“ a gradual loss of autonomy and profile in [environmental foreign policy]. But at the same time it is also a chance to acquire greater significance internationally with the support of the European Union, than is possible for an individual country in the globalised world”.<sup>54</sup>

Environmental and climate policy lends itself then as an appropriate foreign policy topic in two respects.

On the one hand, domestic policy factors such as the comparably high level of environmental awareness amongst the population and the exceptional size and strategic capability of the German environmental movement led to Germany being pushed time and again into taking a forerunner role in environmental

policy.<sup>55</sup> The position as a leading country in environmental and climate policy is then but a small step away from an active and leading role in European and international negotiations as well as decision-making processes. Thus, Germany took a leading role in the decisive phase of the international negotiations on the protection of the ozone layer from the mid-1980s. The then Federal Government opposed the position taken both by its own industry and the European Union and cautiously moved towards the US, which was demanding a ban on substances such as chlorofluorocarbons (CFC). After Germany succeeded in convincing other member states of the necessity of far-reaching international regulations, the Montreal Protocol on Substances that Deplete the Ozone Layer was agreed on in September 1987. Grundmann views domestic policy factors as the main reason for the change in Germany’s position: “After the coalition government had become involved in ‘green topics’ in domestic policy, it attempted to play a leading role internationally as well”.<sup>56</sup>

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*“Germany has up until now concentrated its leadership role primarily on so-called low politics, namely the foreign policy or international dimension of substantial sectoral policies.”*

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On the other hand, economic and political globalisation fosters greater emphasis on foreign policy in Germany’s environmental protection efforts. Today, Germany is less able than ever before to act alone nationally in environmental, climate or energy policy for an extended period of time. Germany’s interest in boosting its foreign policy profile is connected to the need to more strongly underpin and support its market-based national environmental policies with

51 See Jochen Monstadt: Die Modernisierung der Stromversorgung. Regionale Energie- und Klimapolitik im Liberalisierungs- und Privatisierungsprozess, Wiesbaden 2004, p. 224.

52 Holtrup Mostert: Die Umweltaußenpolitik Deutschlands, 2011, p. 403; own translation.

53 See Detlef F. Sprinz: Germany’s International Environmental Policy, in: Hanns Maull (ed.): Germany’s Uncertain Power. Foreign Policy of the Berlin Republic, Basingstoke 2006, pp. 214-230, here p. 214.

54 Holtrup Mostert: Die Umweltaußenpolitik Deutschlands, 2011, p. 410; own translation.

55 See Jänicke/Jörgens/Jörgensen/Nordbeck: Germany, 2002; Jänicke/Weidner: Germany, 1997.

56 Reiner Grundmann: Transnational Environmental Policy. Reconstructing ozone, London 2001, p. 162.

international policy. An example of this is the German energy transition. The transition has led to a massive increase in electricity generated from renewable sources since the early 1990s and therefore also potentially to the significant decrease in CO<sub>2</sub> emissions. However, this effect is much less pronounced at the European or international level. Open markets and Europe-wide policies, such as emissions trading, counteract the positive effects on the environment of the German transition to green electricity. In particular, the low prices of CO<sub>2</sub> emissions certificates in European emissions trading have led in recent years to Germany once again generating increased amounts of electricity from coal, in addition to wind and solar power. While more expensive green electricity is consumed in Germany, causing electricity prices to rise for the end user, excess electricity generated from coal can be exported abroad due to the low cost of CO<sub>2</sub> certificates. Due to this, the German energy transition came under pressure from two directions; firstly from increasing national opposition to high and still rising electricity prices, and secondly from growing doubt about the environmental effectiveness of individual national efforts at promoting electricity generated from renewable sources.<sup>57</sup>

Against this backdrop, Germany developed a growing interest in a Europeanisation of its approach to the energy transition and the environmental modernisation of the entire energy system. This was particularly evident at the United Nations Climate Change Conference in Paris in December 2015, at which Germany actively forged new alliances in order to bring about a successor agreement to the Kyoto Protocol and to give new impulse to the European and global transformation to a low-carbon economy. The interest in being positively perceived by others, strengthened by the necessity for greater integration of German climate and energy policy internationally, led Germany

to once again intensify its long active role in international climate negotiations.

A further area of international environmental policy in which Germany has played an active and leading role for many years is the discussion regarding a structural reform of the UN's environmental institutions.<sup>58</sup> However, Germany has up until now been unable to realise its demands for a world environment organisation either at the World Summit on Sustainable Development in Johannesburg in 2002 or at the 2012 United Nations Conference on Sustainable Development in Rio de Janeiro.<sup>59</sup>

## 4. Conclusion and outlook

The depiction outlined above shows that a complex mixture of motivations underlies Germany's interests and priorities in European environmental policy. It is to be expected that in different areas of environmental policy action different interests will win the upper hand. The case of international negotiations on the protection of the ozone layer illustrates that domestic pressure from a critical and environmentally-aware public combined with Germany's fundamental interest in a positive external image with regard to the common international interest was, in the end, stronger than the polluter interest in protecting the country's industry from the high costs of environmental adjustments.<sup>60</sup> In other issue areas, polluter interests may ultimately have the upper hand.

Overall, one can expect Germany to play a particularly active role in European and international environmental policy when different types of foreign policy interests are combined. This, for example, is always

<sup>57</sup> See Rainer Hillebrand: Climate protection policy: ecological modernisation, industrial competitiveness, and Europeanisation, in: Sarah Colvin (ed.): *The Routledge Handbook of German Politics & Culture*, London 2015, pp. 373-388, here p. 383.

<sup>58</sup> See Tanja Brühl: *Umweltpolitik*, in: Siegmund Schmidt/Gunther Hellmann/Reinhard Wolf (eds.): *Handbuch zur deutschen Außenpolitik*, Wiesbaden 2007, pp. 703-712, here p. 708.

<sup>59</sup> See Holtrup Mostert: *Die Umweltaußenpolitik Deutschlands*, 2011, p. 405.

<sup>60</sup> See Grundmann: *Transnational Environmental Policy*, 2001, pp. 162-163.

the case when third-party interests, i.e. the interest in opening up new markets for German environmental, energy and climate protection technologies, are combined with interests in shaping policy and/or in Germany playing a more visible role in international policy. This constellation currently appears most pronounced in climate protection and in renewable energy policy. Therefore, it can be expected that Germany will extend its international activities in this area, both within the European Union and beyond in global negotiations, in the medium to long term.<sup>61</sup>

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61 See Dennis Tänzler/Stephan Wolters: *Energiewende und Außenpolitik. Gestaltungsmacht auf dem Prüfstand*, in: *Zeitschrift für Außen- und Sicherheitspolitik* 2/2014, pp. 133-143.



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