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Transformation in European Environmental Governance

ANDREA LENSCHOW

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Transformation in European Environmental Governance

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Abstract

This working paper is concerned with the structure and practice of European governance in the environmental field. It situates the current environment-specific governance debate in the EU in a larger context of the global discourse on governance in general as well as on environmental sustainability. The core of the paper deals with the evidence of governance changes on the EU level and in four of the member states (Germany, Netherlands, Spain, UK) and explores to what extent we are currently witnessing a convergence of environmental governance patterns in Europe. The paper concludes that the EU impact on national structures and practices exists with respect to the national governance rhetoric and certain institutional innovations. Overall, diversity of environmental governance patterns is persisting in Europe, which from the perspective of environmental policy performance may be an advantage rather than a problem.

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1. Introduction[1]

With "the transformation of governance" the literature on European integration and policy making is returning to a theme that has preoccupied scholars of the European Community since its early days of existence. Early analyses have focused on shifting power relations - between different levels of government and to a lesser extent with respect to state-society relations - as the primary dimension of governance (leading amongst these early works are Haas 1964 and Hoffmann 1966). In light of an increasingly acute awareness of the complexities of the processes, interactive structures and the institutional design in Europe, on the one hand, and a rising concern with the problem solving capacity of national and supranational governing authorities confronted with the complex, diverse and dynamic nature of "modern" policy problems (Kooiman 1993), on the other hand, present studies of European governance have begun to examine not only the distribution of competencies but also modes or practices of governance, including interactive patterns and regulatory style and instruments (Jachtenfuchs, Kohler-Koch 1995; Kohler-Koch 1996).

The question is raised whether European policy making in complex policy areas is resulting in new structures and modes of governance in the European member states. What are the mechanisms and conditions under which new notions of governance diffuse in Europe? What constitute the limits to such diffusion? These are the questions that are explored in this paper with respect to one specific "modern" policy area, namely environmental policy.

European environmental policy represents a regulatory and sector-transgressing policy field. Its complex nature and extensive scope, with implications for the appropriate role and internal organisation of the state and its governing style, place environmental policy in the centre of the present re-evaluation of governance models.[2] The recognition of a considerable implementation gap has served to further highlight the limits to governability (a) in the relationship between the EC and the national (implementing) level, (b) across policy sectors

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[1] This paper is currently considered for publication in Beate Kohler-Koch (ed.), *Transformation of Governance in the European Union* (London: Routledge, ECPR Series, forthcoming in late 1997).

I am grateful to Peter Bursens, Rainer Eising, Markus Jachtenfuchs, Markus Haverland, Christoph Knill and Michèle Knodt and all participants in the ECPR workshop meetings in Oslo and Mannheim for valuable comments on earlier drafts of this paper.

[2] See the so-called "Molitor report" for an evaluation of the structure and mode of environmental policy in terms of its problem solving capacity (CEC 1995a).

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due to failing policy coordination and integration and (c) over time by allowing long-term unsustainable practices.

Reflecting upon the widened scope of the governance debate, I will define the concept as consisting of two dimensions:

1. structural elements with reference to (a) *organisational* features (vertical and horizontal distribution of responsibilities; that is, centralised versus decentralised and integrated versus compartmentalised structures) and (b) *state-society relations* or forms of interest intermediation (that is, the patterns of ex- and inclusion, reflected in the authoritarian role of the state versus corporatism versus competitive pluralism versus networks/partnership). This dimension encapsulates the "traditional" power-related understanding of governance, whereas the following one responds to the new emphasis on governing practice.

2. regulatory style: following van Waarden (1995), I distinguish between three sub-dimensions, namely (a) the routine *intervention modus* (hierarchical/interventionist versus cooperative), (b) *routine procedures* (legalistic versus flexible/pragmatic; adversarial versus consensual); and (c) *routinely created policy networks* (compared to the structural dimension, this category focuses on the nature of the interaction within networks, for instance, a formal versus informal style).

A particular choice of policy instruments is related to the respective regulatory structure and style and shall be included in the analysis as an indicator of the respective mode of governance. In brief, a shift away from command-and-control (top-down) policy instruments toward market-oriented, self-regulatory and communicative "learning" tools tends to correspond with more open governing structures (networks, partnerships) and the adoption of a facilitating, cooperative and consensual rather than imposing mode of governance.

The following section begins the exploration by briefly charting the emergence of the new governance debate in the global and European discourse. It situates the debate on European environmental governance in the ongoing general as well as policy specific (environmental) global discourse on governance. The purposes of this discussion is merely to elaborate on the features of the ideal-typical "new" mode of governance in the environmental area. Even though it is my assumption that European governance is embedded and responsive to global pressures as well as a global exchange of ideas, the analytical focus of the core of this paper is limited to (a) the extent to which such new mode is emerging with respect to EC structures and policies and (b) the degree and mechanisms of its diffusion in the member states.

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2. The Global Discursive Context of the Transformation of European Environmental Governance

European considerations regarding the transformation of environmental governance take place in the context of a general and a policy-specific governance debate which, I suggest, overlap in the types of governance structures and practices that are being identified as governance solutions. To be precise, the debate on the general "crisis of the state" and that on failures to resolve environmental problems in particular share the perception of a problem solving potential implied in a shift from hierarchical to inclusive network structures and in the move toward a more cooperative, consensual and facilitating governing or regulatory style.

To elaborate briefly on the two concurrent debates, the issue of general governance focuses on the loss of problem solving capacity of central governments. The perception of crisis goes hand in hand with a broader, more systemic understanding of the nature of today's policy problems and has led to several "global responses" to these new concerns, ranging from the "pooling of responsibilities" in supra- and international fora to attempts of changing the forms of governmental "management" and state-society relations (see Scharpf 1988, Mayntz 1993). The so-called steering debate (*Steuerungsdebatte*) - reinforced by the concurrent "neo-liberal" economic debate - has triggered plans for institutional reforms, targeted at slimming and unburdening the central state. These reforms imply changes in governing practices and choice of policy instruments, for instance moves toward de-regulation, market liberalisation or "new public management" (Hood 1995, Wright 1994).

The evolution of European environmental governance is influenced equally by a global debate on the content and structure of environmental policy (WCED 1987, UNCED 1992). This debate, while focusing on the interpretation of the political, socio-economic and scientific reality, has structural - that is governance - implications in its own right which currently resonate in EC and member state programmatic documents (e.g., the Commission's Fifth Environmental Action Programme (CEC 1993a) and the Dutch National Environmental Policy Programme). The emerging recognition of the complexity of the policy *problematique* is implied in a new, systemic understanding of the role of environmental protection in economic development. Governance failures are identified along two dimensions, one touching on intra-state and the other on state-society relations, with implications for governance structure, style and instruments:

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1. In the past, fragmented policy making structures have led to "insulated" environmental and economic governing activities, respectively. This was so despite the inherently horizontal nature of the environmental policy field. Such insulated structures have prevented effective policy coordination and, consequently, have led to sub-optimal policy outcomes across policy fields (i.e., failed to minimise the costs inflicted by one policy on the other) and the failure to exploit complementary policy objectives (derived from the realisation that environmental protection and economic development are mutually dependent on one another in the long-term).

2. The traditional assumption that policy objectives may be successfully pursued by legally imposing rules and procedures upon societal actors has resulted in the predominance of a legalistic, hierarchical policy style, with corresponding top-down regulatory policy instruments. Furthermore, it has led to the neglect of systematically including a wide spectrum of societal actors in policy formulation and implementation. Implementation failures have alerted to the fact that environmental protection ultimately depends on changes in attitude and hence the behaviour of every member of society. Given the - more and more apparent - limits in the problem solving capability of authoritative regulation (and technological solutions), policy actors started to experiment with a more cooperative, consensual and inclusive policy style that is targeted of business actors and ordinary citizens. Their acceptance of environmental policy objectives and of their responsibility for the collective (economic and environmental) good is now thought crucial for positive policy outcomes. The perception that successful policy depends on economic and private actors "internalising" the fact that they are responsible for environmental protection has further consequences for the choice of policy instruments. It has resulted in a de-emphasis of top-down regulatory instruments and the attribution of a more prominent role to market-oriented, self-regulatory as well as informational and communicative instruments.

It is apparent that the seemingly environment-specific concerns with governance structures and style echo the above mentioned general issues concerning the overall problem solving capacity of the state. We detect "conceptual borrowing" between the general and policy-specific debates. The steering debate and the environmental governance debate have led to similar calls for a shift from reactive and narrowly conceived policy making to the broader attempt at problem solving (Scharpf 1988), the replacement of hierarchical state-society relations with network structures formed by a negotiating and jointly learning set of actors (Mayntz 1993; Hakansson 1993, quoted in Kohler-Koch 1995) and a facilitating and mediating state. The use of communicative and informational policy instruments corresponds with "modern

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steering"; similarly market-oriented and self-regulatory instruments may represent such an attempt by conferring greater responsibility for the collective good to societal actors.[3]

Having elaborated on the interplay between general and environment specific governance in the context of the ongoing global debates, let me now turn to the actual emergence of "new" modes of governance in European environmental politics. In the following analysis the global debates just discussed move "backstage" and the focus shifts to the transformation of governance patterns on the EC level and its impact on member state structures and practices. First, I "take stock" of the mode of European environmental governance, contrasting it to the features of "new" governance identified above. Then, I turn to the diffusion of "new" governance structures and style in the EC member states, posing the question to what extent and under what conditions the EC example is followed in the member states (keeping in mind that each level will have been influenced by global developments as well as play a role in shaping the global and European processes). A first and still explorative attempt is made to trace the EC impact on national transformation processes as well as policy performance. Graph 1 serves to highlight the specific focus of this analysis (thick arrows) within a complex international institutional and ideational context.

[3] The latter link depends on the larger context in which these instruments are embedded as this shift in policy instruments may also reflect ideas derived from the economic debate on neo-liberalism. Such concurrence of debates poses obvious analytical problems which, due to limited space and well as empirical breadth, could not be tackled systematically in this paper.

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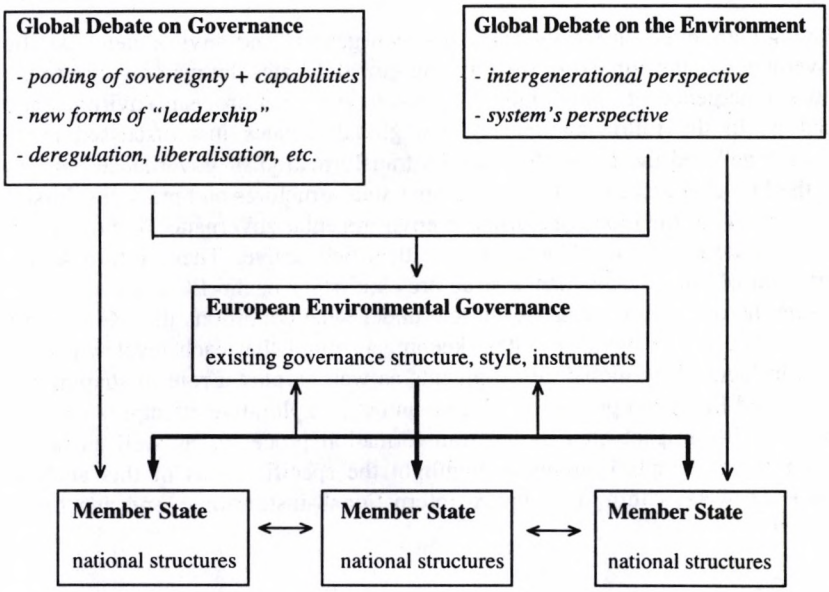
Graph 1: The Context of the Transformation of Environmental Governance



In the analysis of the top-down impact of EC governance structures and practices on national patterns we can formulate the null-hypothesis that no domestic transformation occurs. In contrast, if we detect a convergence toward a new mode of governance between the supranational and the national levels I suggest to think of this process in terms of a dynamic process of transformation pressure exerted on the EC level (necessary condition) and member state receptivity (sufficient condition) to these new influences.[4]

[4] Please note, the focus on the influence of EC governance patterns on domestic governance reflects a restricted analytical perspective rather than an underlying assumption that global impact is insignificant or that no feedback from domestic structures and politics to EC practices occurs. A systematic analysis of the interplay between the three levels of analysis would have far exceeded the space provided as well as the scope of this paper.

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I suggest that European pressure to transform develops in two ways. First, the emergence of governance structures creates a reform agenda and structures the range of reform alternatives considered on the national level. Newly created European "governance models" that, in addition, amplify and crystallise new notions of governance emerging in the global debates, serve as the basis for national learning processes. I hypothesise that such top-down trickle effect depends first and foremost on the institutionalisation and internal consistency of the European example, encompassing a clear perception of the policy problem and a corresponding model for governance structures and practices thought capable of problem solving. Secondly, in addition to structuring the flow of ideas and policy concepts in the member states, EU influence may result more directly from European legislation to be implemented on the national level. To the extent that EC directives and regulations imply certain new governance structures and styles (e.g., the self-regulatory style implied in the Eco-Audit Regulation or the emphasis on transparency in the Access to Environmental Information Directive), transformation pressure on national actors is exerted in the implementation process.

Receptivity, I argue, depends similarly on ideational and institutional factors. I suggested above that new governance concepts have emerged from a new awareness of insufficient problem solving capacity. Such shift in perception, in turn, resulted from a new problem definition (on a general level this concerns the complexity, dynamic and diversity of "modern" policy issues; in the case of the environment, its inter-sectoral, inter-generational and societal dimensions are newly perceived as core problems). This link between problem perception and receptivity to governance reform is not a uniform process across member states, however. Instead, the adoption of the "new" problem definition is likely to vary depending on the national context, affecting the member states' drive to engage in governance reforms (for a similar reasoning see Haas 1990 and Jachtenfuchs 1996). The move from ideational adaptation to governance transformation is further influenced by institutional resistance to change. In Di Maggio and Powell's words "[i]nstitutional models are quite unlikely to be imported wholeclothed into systems that are very different from which they originate" (1991: 29). Hence, we expect "proposals" for new modes of governance in the European or global arena to be re-interpreted in the given national context whereby member states' receptivity depends on the gap between "new" (European) and already existing domestic patterns as well as the density, extension and stability of the latter.

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3. New Modes of Governance in European Environmental Policy Making

3.1. The EC Level

On the EC level there is evidence that the wider and more systemic environmental problem perceptions that is being formulated in global environmental fora are taking root. The associated new structures, style and instruments of governance are equally gaining currency on the Brussels level of European environmental policy making. This section shows that presently they supplement rather than replace traditional governance structures. In other words, Europe is sending "mixed signals" - a factor that is likely to reduce the level of transformation pressure created for the member states.

Environmental policy in the EC began as an opportunistic policy in the 1960s, exploiting policy niches "unclaimed" in the established policy areas on the European level and relatively non-controversial or non-politicised among member states. In Hildebrand's words, this early European environmental policy, which was then lacking a formal legitimisation in the EC's Treaty-basis, was "incidental to the overriding economic objectives" (Hildebrand 1993: 13). In the 1970s and early '80s it became increasingly "responsive" to a greening public opinion (spurned by concrete environmental disasters) and the realisation of the often transnational effects of pollution (ibid.: 20-28).

Even though several policy principles were proclaimed in the first European Environmental Action Programmes, such as the principles of prevention, polluter pays and policy integration, in reality these principles were compromised, and no distinct policy philosophy or general problem perception supported by a coherent governance structure emerged on the European level. Nevertheless, especially in contrast to the new mode of governance sketched above, several general features of early EC environmental policy can be detected.

1. The nature of the problem solving *problematique* in environmental policy remained elusive, hindering the emergence of coherent governance structures. The EC's *ad hoc* creation of environmental policy, resulting in a policy patchwork rather than an integrated system, played an important role in this respect. In part due to the very restrictive opportunity structure for systemic environmental policy making (c.f., Knill/Héritier 1996, Lenschow 1996) environmental policy emerged in those "niches" that were non-controversial among member states or had escaped political attention. This was reinforced by the EC's legal structures which did not provide an explicit legal base for environmental policy. Thus, environmental measures were placed primarily in the context of the internal market and evaluated based on their costs (re-

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regulating liberalised market processes) and benefits (through the harmonisation of standards) for the market.

2. The largely vertical structure of Community institutions led to limited interaction between horizontal policy fields (such as the environment) and sectoral ones and intensified the patchwork character of the set of ideas guiding EC environmental policy (Lenschow 1996). The European policy level was perceived as the top layer in the policy making chain. The formal (legal transposition) rather than practical implementation of EC legislation was the primary concern of EC-level "guardians" in the Commission, hence coordination with the implementing national or regional level was low. Furthermore, the *ad hoc* style in policy "appropriation" hindered a systematic division and coordination of responsibilities along vertical and horizontal lines. In terms of state-society relations a clear structure of interest intermediation on the European level could not be detected; its characteristics are fluctuating between corporatist and pluralist patterns.

3. On the basis of this formal structure in environmental policy making, an interventionist and legalistic policy style developed. Access for societal actors tended to be nevertheless informal, though favouring economic interests, with tri- or multi-lateral partnerships forming an exception. The network structures that emerged around the Commission operated merely in the early policy formulation phase, hence performed as an instrumental device for the Commission. They were short-term in their impact and did not represent elements of a new mode of governance based on cooperative partnerships shaping the entire policy making process. Nevertheless, the policy formulation phase was relatively consensual which served to reduce the level of conflict in the subsequent competitive decision making phase.

4. Corresponding to the interventionist and legalistic style, EC social regulations are traditionally command-and-control measures, establishing material or procedural standards to be followed in the member states. To this day the EC has adopted more than 200 binding pieces of environmental legislation (Haigh 1990).

Since the mid 1980s, the EC has slowly departed from this traditional pattern of governance in the environmental policy field. Past implementation problems had alerted policy makers to the insufficient problem solving capacity of the system and triggered a debate on policy and institutional reform. On the basis of the globally emerging new understanding that environmental protection constitutes the basis for economic development, the governance problem became identified as one of policy integration and learning. Accordingly, the

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Treaty on European Union (TEU) lays down that "[e]nvironmental protection requirements must be integrated into the definition and implementation of other Community policies" (TEU, Art. 130r,2), strengthening the formulation chosen in the SEA. Policy integration represents the central message in the latest EC Environmental Action Programme (CEC 1993a) and is considered the structural requirement for realising the complementary nature of economic and environmental policy goals. This notion also features in programmatic publications of the Commission such as its White Paper on Growth, Competitiveness, Employment (CEC 1994) or its recent Communication on Trade and Environment (CEC 1996a).

Recent institutional and procedural innovations by the Commission reveal its attempt to adjust governance structures to the new problem perception. For this purpose horizontal policy boundaries are loosened and networks spun to connect public authorities and society. These networks reach beyond the existing policy-specific networks and focus beyond the immediate and narrow policy formulation stage. To be specific, three dialogue groups were established: A consultative forum included representatives of regional and local authorities (4 members), consumer and environmental organisations (5), trade unions (2), industry (9), agriculture and agri-food organisations (2) and independent personalities (9) and provided a general sound-board on the general direction of EC environmental policy and its relation to economic development. An implementation network consisted of Commission officials and representatives of relevant national authorities involved in the implementation of EC policy. Finally, a policy review group, composed of the environmental Director-Generals in the member states and Commission officials, aimed at developing a mutual, cross-national understanding and the exchange of views and information on environmental policy and specific measures.

Indicating an emerging belief in policy integration and the problems inherent in organisational fragmentation and insulation, the Commission began to engage in internal administrative and procedural reforms as well. In an internal Communication (CEC 1993b) the Commission announced to

- clarify 'the mechanisms for internal consultation, in particular to stress that the services responsible for environmental policies in the Commission are consulted at the early stages of definition of Community policy and action';

- practice environmental impact assessments (EIA) of its own actions;

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• strengthen its internal mechanisms by (a) preparing an annual integration report based on self-evaluation of all DGs of their performance, (b) designating in each DG a senior official to the task of ensuring that policy and legislative proposals prepared in that DG take account of the environment, (c) establish a special unit in DGXI with the task of coordinating and monitoring the implementation of the fifth EAP;

• communicate its integration efforts through the annual work programme and the annual report and prepare a code of conduct for its own practices.

Also, the Commission as a whole has announced a number of measures designed to enhance the transparency of its work. The package includes the earlier publication of the Commission's annual work plan in order to allow for more effective discussion with the other institutions and potential revisions, more structured procedures and broader consultation with affected interests and a code of conduct on access to information supported by technological innovation (Peterson 1995).

The implications for governance of these internal changes, once completed, are two-fold. First, they are intended to improve the legitimacy and accountability of the Commission in the area of environmental policy through the adoption of self-regulating measures and a higher level of transparency, in the absence of democratic controls. Second, in order to facilitate systemic/sustainable policy making, they constitute an attempt to break down boundaries between policy areas, so prevalent on the EC level, and broaden as well as deepen communication channels between previously insulated policy makers.

Other Commission initiatives to surmount fragmented communication involve links to civil society. DGXI in particular has stepped up its efforts to create such links, developing its own support network beneath the public authorities in the member states but also enabling societal actors to play a greater role in policy making on the domestic and EC level. In addition to lending financial support to the operation of several Europe-wide environmental organisations, a process defining the relations between the Commission and European interest federations also with respect to other policy areas and as such not a new characteristic, the Commission engages in regular - increasingly high-level - contacts with interest groups. "New" funding goes to specific NGO projects that are targeted at developing and mobilising an environmentally concerned element in civil society within the member states as well as outside EC territory (e.g. in Eastern Europe). Through financial support, consultation services and the facilitation of cross-national exchange of information and cooperation, the Commission has also been instrumental in the setting up of, for instance, the

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'European Partners for the Environment' (providing a platform of industry and NGOs to meet and discuss ways toward sustainable development) and the 'Car Free Cities Club,' thereby facilitating the development of a mutual understanding among segments of society and, in the long run, attitude changes among societal actors.

Similarly challenging the traditionally legalistic, command-and-control approach to environmental policy making has been a shift in the choice of policy instruments. "New instruments" are targeted at improving the amount and quality of information (data collection, research), the consideration of spatial and temporal environmental impact (spatial planning, environmental impact assessments, integrated pollution control), the goal to integrate policy objectives by "getting the prices right" (economic analysis and instruments), and to change producers' and consumers' attitudes and hence behaviour (education, training, information, incentives). The new European Environmental Agency plays a central role in supporting and coordinating these efforts. In general, these new instruments and institutional innovations will perform the function of facilitating problem recognition and resolution, instead of imposing a diagnosis and prescriptions from above. The emphasis on information collection and provision, research and education help the creation of equal partnership in policy making, their joint learning but also mutual control. The plurality of actors associated with the different instruments will result in new complexity in territorial and public-private terms, counter-acting old hierarchical chains of command.

Despite the impression of a significant transformation of governance in the EC it must be emphasised that the innovations just described are taking place as "extensions" rather than replacements for traditional structures, styles and instruments. The integrative structures continue to be weak and often ineffectual due to the persistence of horizontal and vertical policy divides; similarly the new formal networks created after the adoption of the 5th EAP have not yet emerged as main contributors in the policy making process (CEC 1995b, Favoino 1997, Lenschow 1996). On the other hand, many issue-specific policy networks are forming and begin to play an important role for the Commission's work as well as national policy making practices (Interviews Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit (BMU), March 1997). With respect to new policy instruments, command-and-control legislation continue to out-numbers the existence of new instruments by far.[5]

[5] No normative judgement is implied in this statement. It may very well be, that command-and-control instruments are superior in reaching environmental objectives compared to market-oriented, self-regulating or informative/communicative instruments. Several authors

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From the perspective of the level of institutionalisation of new governance structures on the EC level it may be revealing to briefly examine the position of the Court with regard to the new problem perception and the associated governance structures.[6] The Court has been instrumental in legitimising EC environmental policy making. It has not succeeded in clarifying the connection between environmental and economic objectives (Koppen 1992) and, on this shaky ground, considers environmental issues on a case-by-case basis. This way the Court has contributed to the perpetuation of fragmented governance structures, an adversarial rather than consensual patterns of conflict resolution and exclusive network structures. For instance, by resisting a broad definition of "access to justice" in limiting the right of environmental organisations to legally pursue non-compliance with EC environmental law (admissibility to the Court is premised on a violation of individual rights), the Court has restricted the establishment of more open governance structures and practices.

In conclusion, while a shift in the policy discourse is quite apparent especially within the Commission, neither the impact of organisational and procedural innovations, the shift towards new policy instruments, nor the "constitutional" status of new governance elements are unambiguous. Rather, the present status of EC environmental policy must be characterised as a mix of old and new policy philosophies, structures, style and instruments. To the extent that we observe a trend toward new practices, such trend is presently most prevalent in DGXI and the Environment Committee in the European Parliament. From the analytical perspective of this paper, the necessary condition for a transformation of governance in the member states - EC pressure - is not clearly satisfied, even though a trend can be identified.

3.2. The member states

As just concluded, based on the discussion of the governance pattern on the EC level, the overall transformation pressure is only moderate. What has been a mix of governance features from the start has now become a "wider mix" through the addition of new elements. The diffusion of these new elements is nevertheless worthwhile analysing.

For this purpose I examine the experiences in Germany, The Netherlands, Spain and the UK. They represent a wide spectrum of national governance traditions

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have pointed out the limits of self-regulatory measures in particular (e.g., Hajer 1992, Lübbe-Wolff 1996, Scharpf 1992, van der Straaten /Ugelow 1994, Weidner 1997).

[6] Weiler in particular has emphasised in his work that the Court's rulings have had a significant effect on polity building and governance in the past.

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in general, and specifically with respect to environmental policy (c.f., Badie/Birnbaum 1983, Dyson 1980 and 1992, Knill 1995, van Waarden 1995), hence we can expect to gain some insight in the patterns of national responses to EC transformation pressure.

Before turning to transformation processes country-by-country, there is general evidence that member states have adopted the EC rhetoric of a new problem definition and regarding new environmental governance. Also, in structural terms they participate in and have imitated some of the organisational innovations we observe on the EC level. According to the recent progress report of the fifth Environmental Action Programme, all member states have followed the Commission in creating organisational arrangements for policy integration, ranging from environmental units in other ministries (e.g., GER, NL, UK), inter-ministerial committees (e.g., GER, NL, UK) to sectoral conferences (SP). The actual impact of these organisational adaptations appears still weak, however (CEC 1995b: 104), most likely because they constitute institutional extensions more than indicate a deep institutional transformation - a pattern we see repeated with respect to societal structures and matters of policy style and instruments in the following analysis.

The Netherlands

The Dutch National Environmental Policy Plan (NEPP), published in 1989, shows great parallels with the fifth European Environmental Action Programme. They share policy philosophy (problem definition) and problem solving approach, and differ mainly in terms of emphasis and degree. For instance, the Netherlands emphasises the need for "internalisation" over that of "integration"; hence the structure and practice of state-society relations form the centre piece in the Dutch strategy.

Similar to traditional EC thinking and practice, Dutch environmental policy used to be shaped by the notion of a trade-off between economic and environmental policy objectives and policy problems were identified with respect to concrete issues rather than within a general frame. In this light, mostly regulatory/legalistic measures were adopted under the political pressure of environmental advocates within the government who operated in an alliance with mobilised societal actors (Communication, Erasmus University 1996; Bressers 1997). But evidence of continuing policy failure, reinforced by critical public opinion, the Queen's unusual intervention in her 1988 Christmas Address and the innovative policy making style of two subsequent ministers for the environment in the 1980s (Weale 1992), triggered closer cooperation between government and business in order to improve environmental performance (Bressers 1997) and the major policy reform in 1989.

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Case evidence suggests that new structures and modes of governance are crystallising in Dutch environmental policy making. The NEPP and its successors are shaped by the clear perception of human activity as the source for systemic malfunctions in the ecological system which resulted in a new problem solving approach focusing on the attitude and behaviour of all societal actors (the so-called *verinnerlijking* strategy). With respect to the appropriate choice of policy instruments, the mere imposition of legal standards seemed insufficient to produce the necessary educational and learning processes required for the effective internalisation of environmental responsibilities (Le Blanch 1996). Instead, target groups, convened by public authorities and consisting of societal actors, were formed and involved in the definition of policy objectives and selection of policy instruments. In these new network structures actors join together in order to create a public good in a way that is complementary with but not determined by particularistic interests (cf., Mayntz 1993). While the traditional perception of a conflict between economic and environmental interests has not disappeared and the state continues to assume top-down steering responsibilities, Glasbergen and Driessen (1994) cite several examples (the Genre Valley, the Green Heart, Schiphol Airport) of relatively successful new governance practices, coined "network management".[7]

In short, from a governance perspective the Netherlands fit the governance model emerging on the EC level. This is far from surprising, however, considering that the Netherlands were actually a front-runner in integrating new environmental governance features in the national system. Influenced by the global environmental debate which cumulated in the Brundtland report; the Dutch reform process preceded (in fact shaped) transformation processes on the EC level. Consequently, EC induced transformation pressures were minimal; at most, EC developments amplified ongoing national processes.

On a brief tangential note (at least with respect to this paper), the experience in the Netherlands raises interesting questions with respect to the future of "new environmental governance". Looking at the actual environmental performance

[7] Much in line with the mode of modern governance described in this paper, he defines 'network management' as a 'multi-actor system, consisting of various government agencies and societal organizations, each carrying particular objectives and interests. These actors however need each other's help to solve the [environmental] problem. Management by government must mobilize this multi-actor system into co-operative action, and a structured process of interaction and communication must be brought about. In this process, actors will have to learn from each other how to realise outcomes that can both bring environmental objectives within reach and create opportunities for those actors affected by these objectives.' (Glasbergen 1994: 31, citing Zillessen et al.,1993). The same kind of thinking is behind the formation of the dialogue groups on the EC level (even though they exist only on a general level of policy) and corresponds with the use of communicative policy instruments.

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in the country, ambiguities remain concerning the effectiveness of "target group" or "network management" for the protection of the environment. Van der Straaten and Hajer are leading critics of the "new" governance approach, pointing out that the Netherlands remains one of the most polluted countries in Europe and that vested industrial interests tend to prevail within the network structure due to the absence of commanding and sanctioning mechanisms (Hajer 1992, van der Straaten and Ugelow 1994). In contrast, Haverland (1997) traces a relatively successful packaging waste policy to new structures in state-industry relations and the use of self-regulatory policy instruments. But even here, consensus building seemed to finally depend on developing more a exclusive network structure than initially intended. In other words, the Dutch experience points critically to the often ignored evaluative questions regarding the impact of new governance practices on policy performance.

Germany

The policy perception and associated problem solving approaches in Germany show similarities with as well as differences from the understanding shared by the EC and the Netherlands. On the basis of the similarities in terms of problem perception we observe a clear approximation of the policy rhetoric in the EC and Germany; the persisting ideational distinctions, in turn, are reflected in the more selective adoption of new governance structures, styles and instruments.

To elaborate, it is not the recognition of a failure of societal actors to accept and take responsibility for the environmental good, but the notion that business can gain from activities in environmental protection that stands behind the German perception of "no trade-off" between environmental and economic objectives. This perception finds its roots in the German regulatory tradition and its impact on industrial behaviour. Domestic industry was faced with challenging, that is technology-pushing, regulatory standards and indeed developed products and production processes capable of meeting these relatively high standards. Especially when the harmonisation of EC environmental standards took place at the level of German domestic standards, "clean" German industry possessed a comparative advantage and was able to exploit new market opportunities in the rest of Europe. The temporary cost of meeting environmental policy standards turned into long-term business opportunities and gains. Hence, the German problem solving approach, which developed on the basis of a recognised mutual dependence between economic and environmental goals, is one-sided and instrumental; it is not rooted in a holistic "life cycle" interpretation as in the Netherlands.

This perception has implication for environmental governance structure and style, particularly because it excludes large parts of the business sector as well

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as society. Weidner (1996) has coined the resulting structure of state-society relations "ecological neo-corporatism" (*ökologischer Neokorporatismus)* or an "industrial-bureaucratic environmental policy network" (*industriell-bürokratisches Umweltpolitiknetzwerk)*, signifying a relatively exclusive network structure which is innovative in its relative openness to environmental business interest as well as scientific experts, but offers only limited access to the interested public at large. The role of the state in this structure is that of an authoritative facilitator; i.e. operating through network contacts on the basis of the always present threat of command-and-control legislation (cf. also Müller 1989).

The overall legalistic and interventionist policy style with a preference for policy instruments that provide clear, material standards for public administration, business and the ordinary citizens is firmly rooted in the German state and legal tradition (van Waarden 1995, Dyson 1992) and is reinforced by a fragmented (federal) political structure requiring the existence of harmonising legislation. The constitutional character of this tradition and the presence of a dense legal framework already developed on its basis make Germany quite resistant to change.

For that reason, Germany has been slow in implementing policy instruments implied in "new" governance targeted at public participation and joint learning, that is, the introduction of "soft" regulatory measures directed at behavioural change, such as self-regulatory codes of conduct, as well as measures to improve the transparency of and access to policy making processes. Already in the formal transposition of EC policies representing new governance practices there have been problems in Germany. For instance, the latest Implementation Report by the Commission (CEC 1996b) speaks of conformity problems in Germany with the Freedom of Access to Information and the Environmental Impact Assessment Directives. The former Directive has been transposed into German law with more than one year delay and in its application poses doubts whether it corresponds to the spirit of the EC law (cf., Scherzberg 1994, Lenschow 1997). Comparing the Dutch and the Germany information strategy, Knoepfel and Weidner concluded more than a decade ago that the German system for information access which compensates restrictive assess in the policy formulation phase with subsequently relative open access to administrative courts "mainly serves the function of creating legitimacy for the regulatory outputs produced, while the substantially more open Dutch system is more appropriate for reconciling conflicting interest positions" (1983: 208). The underlying concept of state-society relations still prevails.

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Nevertheless, changes in governance structure, style and instruments can be detected in Germany. Jänicke and Weidner find "changes in direction towards consensus building, a broader form of cooperation that includes scientists and members of environmental organisations critical of current environmental policy" as well as "modernised... instruments... stressing the role of information and negotiation" (1997: 140, 139). For instance eco-auditing and eco-labelling are seen as potentially useful complements to top-down regulation, though not as alternatives (see also Héritier/Knill/Mingers 1996; Knill/Lenschow 1997). Despite the emergence of communicative tools in the context of dispute resolutions (e.g., mediation) and self-regulatory instruments such as voluntary agreements (Rehbinder, talk at the EUI 1997), new instruments for environmental policy have been most extensively implemented - and internalised in German policy culture - where they do not conflict with the constitutional and administrative tradition, for instance in the area of fiscal policy (cf., Cremer/Fisahn 1997). Taxation measures operate within a general legal framework, complementing regulatory sanctions regulations with market correctives. They do not imply changes to administrative and state-society structures and procedures. While they do relieve public authorities in a context of an increasingly complex world that is difficult to centrally regulate, they do not imply adaptations to socio-political structures.

While these changes can be partly attributed to a process of domestic policy learning (from past policy failures), EC legislation implying market-oriented, self-regulatory and communicative instruments (most of them first opposed by Germany) seem to reinforce a growing willingness to adapt past practices (Interviews BMU, March 1997) and raise the potential for learning. Furthermore, transformation or adaptation processes must be seen in the context of other policy developments, that is, general efforts to de-bureaucratise the state. The EC regulation on environmental management and auditing systems, for instance, is being implemented enthusiastically (despite initial opposition) in part due to the promise it bears for future de-regulation (Lenschow 1997). This linkage between various "new" agendas continues to be shaped by traditional, relatively exclusive, network management in Germany, however, as current de-regulation measures tend to occur at the expense of public participation (Cremer/Fisahn 1997).

The UK

In contrast to Germany, the British traditional style of environmental policy making was quite different from the EC traditional patterns. Hence, the UK government tended to resist the regulatory measures proposed by the Commission, often under German influence, because the implied legalistic, command and control policy style was foreign to the prevailing pragmatic and

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flexible British practice (Knill 1995, Weale 1997). British policy making in general is characterised by the absence of a strong interventionist tradition of the state (a "state-less society", Nettl 1968) and the common law tradition which favours a case-by-case approach over universally applicable rules and regulations derived from fixed (constitutional) principles. Primary legislation establishes the administrative framework for specific regulations and standards which are often developed in a process of public consultation and extensive negotiations between public authorities and the actors to be regulated (Weale 1997: 92). The state and the economically powerful segments of civil society interacted in an informal and flexible manner to find a regulatory consensus based on a liberal market logic; democratic control and participation through political channels were marginal.

Confronted with the German-influenced command-and-control legislation - establishing firm, material and typically emission-based standards - Britain was forced to augment its pragmatic, flexible policy style and "cosy" relationships between public authorities and industry with more formal statutory practices. Since the late 1980s Britain attempted to avoid such adaptation pressure by behaving more pro-actively in the EC policy formulation process, pushing for the British regulatory approach to be adopted on the EC level. The eco-label regulation represents one successful example (Héritier/Knill/Mingers 1996).

The new governance patterns emerging on the EC level, while sharing some stylistic and instrumental elements, differ significantly from the UK tradition in terms of the underlying problem perception and governance structures, however. Considering the British state and legal tradition, the notion of a systemic problem analysis with associated problem solving approaches that are being developed conceptually and applied universally is quite foreign. While the state may have become a more autonomous authority since the Thatcher era, the "clubby" state-industry relations still dominate in the environmental field; neither the pre- nor the post-Thatcher type of state-society relations corresponds with the newly envisioned structure in the EC in which the state plays the role of a facilitator, mediating between an inclusive set of actors with the goal to reach a common problem perception (internalisation) and mutually agreeable solutions on that basis. The British consensual and pragmatic style, therefore, differs from the "new" governance style in its implied market logic and absence of a collective "problem solving" dimension.

Nevertheless, in its rhetoric the British government has firmly adopted the notion of sustainable development developed in the Brundtland report including the implied institutional consequences. The 1990 White Paper "This Common Inheritance" established several inter-departmental ministerial

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committees to pursue environmental questions (Her Majesty's Government 1990, cf. Weale 1997: 103). The UK strategy on sustainable development published in 1994 calls for the integration of environmental priorities into other areas of policy making and it proposes partnerships between the public and private actors in developing new initiatives, hence hints at problem solving through wider policy networks. More concretely, it announced the formation of a Roundtable on Sustainable Development and a citizens' environmental initiative intended to improve the quality of the debate and build an understanding at the local level of policy issues and linkages (Christie 1994). The impact of these high-level, formal institutional innovations on the "deep" governance structure in Britain remains to be seen; their creation must be understood in the context of similar institutional developments, globally and in Europe, however.

The nevertheless limited degree of the Europe-induced transformation of governance in Britain becomes more apparent when analysing the choice of policy instruments. The shift towards market-oriented and self-regulatory measures in the UK is not rooted in a new belief in modern governance practices, based on public-private partnership relations and the recognition of a shared responsibility in a common good, but rather due to a domestic preoccupation with *laissez faire* governance through market mechanisms and accountable government (Knill 1995) which, in turn, can be situated in the context of a global neo-liberal trend. The access to information policy in the UK similarly has its intellectual roots in an attempt to curtail discretionary state actions and to legitimise the conservative reform in the UK (ibid.); it was not intended to facilitate equal partnerships, joint learning and problem solving. In other words, in terms of governance style and instruments we observe a "merger" of the global socio-economic debate, rather than the "steering debate", with themes raised by "new" environmental governance.

With respect to policy effectiveness, it needs to be the subject of future analysis whether similar tools based on different leading ideas show significant differences in their performance. On the one hand, effectiveness may result as a consequence of market processes. In contrast, Christie has cautioned that "so far development of the political culture for sustainability is on a very small scale, and can only be described as marginal in terms of public investment, political debate and public awareness" (1994: 17-18). With that statement he raised the question whether a formal comparison of governance structures, styles and instruments has any potential for leading us beyond the analysis of transformation processes to conclusions regarding the impact of certain governance patterns on policy effectiveness.

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Spain

Upon entry into the EC Spain decided to incorporate all EC legislation enacted before 1986 into national law. Aside from quickly causing severe implementation problems and "administrative blockage" (Pridham 1996: 67), Spain effectively adopted a package of environmental regulations that was still characterised by the times of *ad hoc,* fragmented and legalistic top-down policy making in Brussels. This early "strategy" corresponds with the observation made by La Spina and Sciortino that "Southern European states generally do not advance proposals of their own, nor do they obstruct proposals made by others. This acquiescence is a way to overcome national decisional paralysis, or better, let the EC overcome it" (1993: 208).

With respect to the adoption of the ideational basis and institutional principles of modern governance since 1986, this view needs to be modified, however. Aguilar has characterised the present Spanish stance in EC policy making as "defensive"(1993: 231), especially concerning the notion of a complementary relation between environmental and economic policy goals and policy integration. Arguing severe repercussions to its economic development introduced by EC environmental policy, Spain has succeeded in extracting large sums of money from the EC budget for environmental protection, for instance via the Cohesion Fund (Lenschow 1997). The limited convergence on the level of ideas may generally hinder institutional adaptation; on the other hand, EC structures and instruments are more likely to be imitated where the national context presents a *tabula rasa.*

Considering that, due the recent development of the policy field, environmental policy institutions are hardly developed in Spain, it is not surprising that we observe some evidence of convergence with respect to formal institutions for sustainable development and modern governance (see CEC 1995). In contrast, the tradition of an overall governing style seems responsible for the persistence of the statist patterns in Spain also with respect to the new policy field - providing little access for civil society to the policy making process. Spanish environmental policy remains characterised by the "pre-eminence of public actors" (Aguilar 1993: 236f) controlling rather than facilitating the building of relatively exclusive networks with and among elements of civil society (mostly industry). Due to EC influence, formal contacts between government and industry are now increasing and voluntary "environmental pacts" have been created, however "[s]tate intervention and a resistance to private government persists...[and] the weakness of the system of interest mediation favours the persistence of the statist design" (ibid.: 240-1). Nevertheless, in part due to the Commission's "clientelistic" policy and transnational NGO activities, an environmentally aware segment of civil society is emerging and seeking to

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influence Spanish and EC policy (Interviews Europe offices of WWF and Friends of the Earth, 1994).

The administrative structures in Spain represent the primary hindrance to cross-sectoral integration and problem solving in open networks. The Interministerial Committee for the Environment (CIMA) was dissolved in 1987, and had been largely ineffective in terms of facilitating policy integration before. Also the transformation of Spain into a "state of autonomies" with the regions taking over large responsibilities in environmental matters has resulted in highly deficient administrative co-ordination (Aguilar 1997). Conflicts on the level of "philosophical" issues, with the state adopting a longer term and systemic understanding of the environmental *problematique* and the regions pursuing shorter-term and particularistic interests, disturb state-regional relations. However, there is evidence that new governance signals sent from Brussels resonate in the economically advanced autonomous regions of Spain, such as Catalonia (Boerzel 1997), which are more receptive to the ideas and problem perception behind new governance structures and practices.

4. Conclusions: Patterns and Results of Transformation Processes

This overview of the transformation of governance structures and practices on the EC level and in the member states indicates change as well as continuity in Europe. I.e., the null-hypothesis of "no change" can be discarded, but, in the case of change, we observe continuing diversity in outcome on the national level. This confirms that aside from European transformation pressure we need to analyse the nature of national receptivity with respect to the dimensions of problem definition and institutional fit or malleability.

Despite discarding the "no change" hypothesis we could observe a good extent of continuity, suggesting that the necessary condition of transformation pressure is not fully satisfied. Indeed, with respect to new modes of environmental governance it is doubtful whether EC governance in the field of environmental policy is sufficiently comprehensive, coherent and stable to trigger a decisive and uniform response. Despite the leadership of some member states in shaping EC environmental policy, and imposing their national policy "paradigm" on the European level, EC policy has emerged as a patchwork of national styles rather than a coherent whole. The introduction of new governance features since the late 1980s may signify a trend, but these transformation signals arrive in an inchoate rather than paradigmatic form in the member states.

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Looking at the member states, we observe the clearest evidence of change at the level of policy rhetoric, suggesting the infiltration of common policy ideas and problem definitions, and with respect to small-scale institution building as well as the diversification of policy instruments. As argued in the beginning, this change in environmental rhetoric can be seen in the context of the global and European environmental debate as ideas circulate freely. In addition and more concretely, national policy programmes are formulated in compliance with international and EC agreements, i.e., follow substantive transformation pressure.

The penetration of new ideas in the "deep structure" of the European consciousness, or the core of the prevailing policy paradigm (Hall 1993), remains varied, however. In the Netherlands external impetus met with an already present high level of dissatisfaction with the status quo internally, triggering a convergence of international and Dutch problem perception even prior to the crystallisation of the European "environmental idea". In Germany components of the newly defined environmental *problematique* corresponded with and were interpreted within the framework of a more narrowly perceived, already existing variant. In the UK the new environmental rhetoric appears symbolic and independent of a clear policy programme, fitting with the pragmatic national policy culture. This new rhetoric echoes the more deeply rooted neo-liberal paradigm in Britain, however, and we need to understand corresponding governance responses in that light. Finally, in Spain the new definition of the environmental problem, namely the notion of an economic-environmental win-win situation, has not been accepted. Hence the ideational basis for new governance structures, styles and instruments is missing.

Despite these differences on the level of problem perception, we observe similar institutional responses in all countries, following in many respects the examples set by the European Commission. Here it is important to note that these institutional innovations have not yet replaced, not even undermined, traditional organisational or interest intermediation structures; they have tended to be "add-ons" rather than constitute substantial reform elements. In addition to a certain degree of institutional imitation that seems to occur independently of a shared problem perception (most notably in Spain), the empirical evidence suggests that the direction of change signalled in Brussels has the most impact on governance structures and style if it corresponds with concurrent, though possibly independent, transformation processes on the global or the domestic level, such as the global debate on de-regulation or domestic moves towards more transparency (Knill 1997). In those cases, EC pressure for transformation seems to amplify ongoing transformation processes even if there has not yet been a convergence on the ideational level. Overall, the level of institutional

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imitation in the EC is quite impressive and its impact on the long-term institutionalisation of ideas will be important to follow.

The dimension where we see the clearest influence of the EC on national patterns is on the level of policy instruments. This response makes sense from an institutional perspective, suggesting that policy instruments are easier to change than core ideas (Hall 1993). It could be equally traced to the nature of the transformation pressure exerted on the European level. In contrast to merely setting institution-building examples on the European level, legislation (implying the use of policy instruments) needs to be implemented on the national level, hence is capable of posing direct pressure for adaptation in the member states. Recent empirical research has shown that the shift toward a new structure and mode of governance (i.e., going beyond the mere use of new instruments) set in motion through the implementation process is mediated by national legal, political and administrative traditions, acting as filters in this transformation process (Knill 1997).

Finally, a word on the link between governance structures and policy performance. Experiences with different mixes of governance types in the member states do not provide clear evidence of their comparative capacity to produce solutions for environmental problems. Especially considering differences in national culture and socio-economic and political structure amongst the member states as well as differences in the type and severity of the policy problems, "good" governance may imply different structures depending on the exact situation. Hence, a wider *repertoire* of governance strategies rather than the transformation toward a uniform, new mode of governance may be most desirable from a normative point of view.

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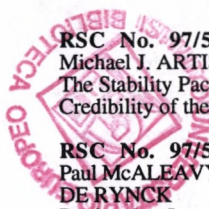

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