

## The Diffusion of EU Environmental Legislation

### - Why do Third Countries voluntarily follow EU Regulatory Leadership?

Katja Biedenkopf

#### 1. Introduction

This paper is a first draft of a conceptual framework to analyse why third countries voluntarily follow the European Union's regulatory leadership by introducing own legislation which sets high environmental standards that are similar to EU standards. Hence, contrary to what might be assumed for other policy areas, globalisation does not necessarily lead to a race to the bottom in environmental policy. On certain issues, it can be observed that some political entities set high standards that are taken over by other political entities. (Jaenicke and Jacob 2004) Not only nation states but also sub-national or supra-national entities have played a role as regulatory leaders. In past years, the European Union has developed a track record of setting high environmental standards through Directives and Regulations, which diffused to other countries around the globe. One example is the 2002 Directive on the restriction of hazardous substances in electrical and electronic equipment (RoHS)<sup>1</sup>, which triggered the introduction of similar regulations in California, China, South Korea and some other countries. Australia and New Zealand, are currently considering the introduction of a similar policy. Another example is the 2002 Directive on waste electrical and electronic equipment (WEEE)<sup>2</sup>, which spread to countries such as Canada, the US, China and South Korea. However, these countries did not copy EU legislation one-to-one. They rather implemented rules that introduce main elements of EU laws. For example, China's version of the RoHS Directive does not impose an immediate ban on hazardous substances in electronic products but started with a labelling requirement followed by marketing restrictions at a later stage by means of a catalogue to which product groups will be added. Yet, substances covered and other technical specifications are the same as in the EU RoHS Directive. Canada did not introduce a national WEEE legislation but many of its provinces implemented or are in the process of implementing laws that are modelled similarly to EU legislation displaying its main features. These are only a few examples of a much broader series of incidents in which political entities outside the EU voluntarily introduced rules setting high environmental standards that had first been implemented by the EU. In these cases there is no apparent use of coercion or formal international negotiation to be detected. It appears that the voluntary diffusion of high environmental standards represents a distinct and separate way in which the EU influences and shapes global environmental governance.

The EU has developed into an important actor in global environmental policy. Since the 1990s, environmental policy grew to an important area of competence of the Union. With the Single European Act of 1986 environmental protection began to play a more prominent role at the European level. The Treaties of Maastricht (1992) and Amsterdam (1997) substantially expanded EU competences and regulatory capacity.

<sup>1</sup> 2002/95/EC. This Directive requires the substitution of various heavy metals (lead, mercury, cadmium, and hexavalent chromium) and brominated flame retardants (polybrominated biphenyls (PBB) or polybrominated diphenyl ethers (PBDE)) in new electrical and electronic equipment put on the market from 1 July 2006.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0095:EN:HTML>

<sup>2</sup> 2002/96/EC. This Directive requires the introduction of take back and recycling systems for electrical and electronic equipment. It places the responsibility for this on producers.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0096:EN:HTML>

Environmental policy became a very important and comprehensive EU policy area with internal and increasingly external implications. As a consequence of its gain of clout and increase in regulatory capacity the EU increasingly got involved in international environmental affairs and became a strong actor. (Bach and Newman 2008) One could distinguish three major ways in which the EU influences global environmental policy: international negotiations, the use of coercion and conditionality, and voluntary diffusion of high EU environmental standards.

This paper examines one of these three ways of influence in greater detail, namely the voluntary diffusion of policy. It outlines a conceptual framework for addressing the main question: *Why do third countries follow voluntarily EU regulatory leadership in environmental policy?* For this purpose, this paper first provides a brief overview of the ways in which the EU influences global environmental governance followed by a review of policy diffusion literature. Chapter three describes the channels through which policy diffuses from one political entity to another. Chapter four specifies country-, problem- and legislation-specific variables, which are important factors influencing policy diffusion. The paper concludes with observations on the EU's role as source for policy diffusion.

#### 2. EU Environmental Policy and Global Environmental Governance

The EU can influence and shape global environmental policy in three different ways. The first one is formal international negotiations that lead to international treaties and agreements. In this way environmental standards are cooperatively harmonised among all signatories to any given agreement. They all comply with the same rules, which generally enter into force on the same date for every party. The EU participates in many important international meetings and it is signatory to over 30 major multilateral environmental agreements<sup>3</sup>. The EU is widely recognised as a significant driver in international environmental diplomacy and has proven to be a leader on many issues such as climate change. (Oberthuer and Roche-Kelly 2008, Vogler 1999) Currently, the EU is one of the driving forces in the negotiations for a post-Kyoto agreement pushing for ambitious and binding targets. The second way of influence is coercion through economic and political conditionality, threats and incentives. Economic and political power asymmetries between the EU and third countries are used, for example, by attaching conditions to development aid or by banning imports from certain countries that do not respect EU standards. In general, coercion is only used in severe instances for a limited number of third countries and mostly for a short period of time until the target country changes its behaviour. The third way in which the EU can influence and shape global environmental policy is the diffusion of its high legislative standards. As outlined above, in the past decade, the EU adopted a range of laws introducing high environmental requirements, which effectively shaped regulation beyond European borders.

Depending on the situation and the subject matter, one of these three different ways of shaping global environmental governance is more suitable than another. Depending on circumstances and use, they can lead to a speedy or very slow solution. Equally the level of environmental protection that could potentially be achieved varies according to situation and conditions. Furthermore, the scope of countries that can be reached through the three tools differs. Formal international negotiations and attempts to find common solutions often face difficulties due to lengthy and complex bargaining procedures resulting from diverging vested national interests. The constellations and divergence of interests of all parties involved is also crucial for the level of environmental protection. In cases of widely divergent interests

<sup>3</sup> For a complete list of all international agreements that the EU is a signatory to see: [http://ec.europa.eu/environment/international\\_issues/agreements\\_en.htm](http://ec.europa.eu/environment/international_issues/agreements_en.htm)

international agreements can result in only minimal protection levels that lag behind some countries' expectations. (Holzinger and Knill 2007: 98-9) Yet, in cases in which national interests are less divergent or in which countries can be convinced of the benefit of high environmental standards, international harmonisation can be a very effective tool. Its scope encompasses all countries that signed up to it. Coercion can only be used in cases of power asymmetries. The imposing country or organisation needs a strong leverage over the targeted country to achieve the desired effect. Furthermore, coercion is only applied in severe cases, since it is a rather harsh and strong tool. It generally only targets a small number of countries that are outside relevant international agreements. Nevertheless coercion could prove very effective. Policy diffusion requires a political entity that is willing and able to unilaterally introduce high standard policy. The diffusion of these standards is not guaranteed and in many cases not easy to steer. Only under certain conditions do third countries voluntarily take over pioneer policy. Policy diffusion could potentially reach a very broad scope of countries, ultimately the whole relevant population of countries. The channels and supporting factors that enhance policy diffusion are discussed in greater detail in this paper in an attempt to analyse why third countries voluntarily follow EU regulatory leadership. Depending on the subject matter that is aimed to be solved, one or a combination of the above outlined ways of influence would be most suitable and effective. This depends on the respective situation.

	Conditions & success factors	Scope	Driving forces / actors
<b>Formal international negotiations</b>	Converging national interests and problem perception	Signatories to the agreement	Single political entities and international organisations
<b>Coercion and conditionality</b>	Power asymmetries	Small number of countries that are in many cases outside relevant international agreements	Single political entities and international organisations
<b>Policy diffusion</b>	Diffusion channels and supporting factors, low predictability	Potentially the whole population of countries relevant to the issue	Single political entities

The three ways of shaping global environmental governance complement and interact with each other. Some links are stronger than others though. Coercive measures could play a supporting role in international negotiation procedures by providing incentives or exerting pressure to convince a country to commit itself to an international agreement. The diffusion of EU environmental policy to a large number of other countries could take place in the absence of a strong international regime and could therefore play an important role in the run-up to and in combination with complex and difficult international negotiations. Diffusion could potentially happen faster than the negotiation procedure and create facts that facilitate consensus finding. (Tews and Busch 2002: 168) International agreements could provide legitimacy for coercive measures, in cases the measure is related to the subject of an agreement, since a larger group of countries accepted the respective issue. Equally, policy diffusion could provide legitimacy in cases in which a related policy has diffused to a larger group of countries. Formal international agreements could trigger a socialisation of countries and an exchange of information, which could foster the diffusion of a related policy. Also coercive measures in related policy issues could support policy diffusion.

	Formal international negotiations	Coercion and conditionality	Policy diffusion
<b>Formal international negotiations</b>	X	Coercion and conditionality could support international negotiations and the expansion of an existing agreement	Policy diffusion could lead to and pave the way for international agreements
<b>Coercion and conditionality</b>	International agreements could enhance the legitimacy of coercive measures and provide a broad group of countries supporting the measure	X	Policy diffusion could enhance the legitimacy of coercive measures and provide a broad group of countries supporting the measure
<b>Policy diffusion</b>	Formal international agreements could enhance the exchange of information and could foster diffusion of related policy issues	Coercive measures in related issues could support policy diffusion	X

Consequently, EU regulatory leadership could be one of the solutions to global environmental problems. It appears to have the potential to contribute a significant part. However, the diffusion of legislation, and policy in general, is not an automatic process. Unilateral introduction of legislation that sets high environmental standards does not guarantee that other countries will take it over. (Holzinger and Knill 2007: 104) Understanding the mechanisms and motivations driving the diffusion process could help steering and enhancing its contribution and make it more predictable. (Busch and Joergens 2007) Policy diffusion as one part of the complex system of global governance stands only at the beginning of being systematically explored. (Joergens 2004: 249) Therefore, the following three chapters describe academic research on policy diffusion, the channels through which policy is diffused and important influencing variables.

### 3. Policy Diffusion

In academic literature, there is no coherent use of the term 'policy diffusion'. Some authors use it in the same manner as it is used in the chapter above: A decentralised process of a set of individual and independent or loosely connected voluntary implementations of policy originating in a pioneer political entity, hence without legal obligations resulting from international agreements or coercive pressure. Yet, some other authors use policy diffusion as an overarching term for all different ways in which a specific policy spreads, including international harmonisation and coercion. (for example Dolowitz 2000) Both of these definitions are well founded in academic literature and none seems to prevail over the other. It depends therefore on the aim of individual studies, which one is chosen. (Holzinger, Joergens and Knill 2007: 15) Given the explicit aim of this paper, namely to analyse the distinct contribution of voluntary processes of policy transfers as complementary and separate way to influence global environmental governance, the narrow definition of the term policy diffusion is applied in this paper.

In general, policy is not taken over on a one-to-one basis. It is modified and adapted to a country's specific domestic circumstances and according to its political preferences<sup>4</sup>. Countries could take over the full scope of a policy, the idea behind it or only parts of it. (Dolowitz 2000: 25) Hence, legislation that diffuses from one country to another can be designed differently. It could, for example, differ in choice of policy instrument (legally binding, voluntary etc.), technical requirements and scope of items covered. Nevertheless, in many cases the environmental protection level is raised and approximated to or lifted up to the same level as the pioneer country standard and a clear link can be demonstrated. However, as shown by Randaelli in his study of regulatory impact assessments, diffusion does not always lead to convergence. (Randaelli 2005) In some instances the outcome of diffusion can differ significantly. But this appears to be exceptions. The diffusion of policy could also be the solution to different problems in the pioneer country and the third country. The pioneer country could introduce high standards to protect the environment. But the third country could introduce similar requirements for competitiveness reasons of its domestic industry.

In most analyses, policy diffusion is applied to nation states. However, other political entities with regulative competences could equally be the source and target of policy diffusion. This could be a sub-national entity that is part of a (federal) state or an international organisation that groups together a number of nation states. For both incidences there are examples: In the 1970s and 1980s, California has proven regulatory leadership on car emission standards that were first diffused to the national US level and later globally. (Vogel 1997) More recently, the EU has become a source for policy diffusion. For example, its above mentioned 2002 Directives on the restriction of hazardous substances in electrical and electronic equipment and on waste electrical and electronic equipment, its 2000 Directive on End-Of-Life Vehicles<sup>5</sup> and its 2006 Directive on batteries and accumulators and waste batteries and accumulators<sup>6</sup> have been diffused to other countries.

When analysing the process of policy diffusion, authors identify a variety of different channels and causal mechanisms through which policy is diffused from one pioneer to another or to a group of other political entities. Some authors only focus on one specific aspect such as learning and communication (for example Stone 2000) or regulatory interdependence (for example Lazer 2001). Some others take into account a larger number of channels ranging from economic interdependence to symbolic emulation. (for example Holzinger and Knill 2007) In its comprehensive account, policy diffusion could be divided into two major categories of channels: Transnational communication and international socialisation, on the one hand, and economic interdependence and regulatory competition, on the other hand. These broad categories of channels could encompass different sub-categories.

However, diffusion is not an automatic process. The existence of one or both of these channels does not mean that diffusion will automatically take place. Country-, problem- and legislation-specific variables determine whether or not political entities effectively decide to introduce measures following another political entity's leadership. Both, the channels and the supporting variables are elaborated in greater detail in the following two chapters.

<sup>4</sup> These are also important factors for diffusion to occur in the first place, which is elaborated in greater detail in chapter 5.

<sup>5</sup> 2000/53/EC. The Directive sets quantified targets for reuse, recycling and recovery of vehicles. [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX\\_32000L0053:EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX_32000L0053:EN:HTML)

<sup>6</sup> 2006/66/EC. The Directive introduces measures to prohibit the marketing of some batteries containing hazardous substances. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:266:0001:01:EN:HTML>

#### 4. Channels of Policy Diffusion

With growing globalisation the international arena is becoming increasingly integrated. International trade is being liberalised and creates ever more global product flows and supply chains. Multinational companies operate on a global scale. Environmental problems are no longer solely national or regional issues. A number of global problems such as climate change, transboundary air pollution and loss of biodiversity have emerged and are becoming bigger. Responding to these developments nation states and other political entities such as the EU got involved in a growing number of different international organisations and networks. A global scene of different groupings and various agreements on a broad scope of issues has emerged. On the international level, countries could not only negotiate binding agreements and adopt international law. The international arena could also provide for communication and socialisation beyond 'hard' international law. Furthermore, regulatory interdependences resulting from the growing together of national economies could provide another major policy diffusion channel.

##### 4.1. Transnational Communication and International Socialisation

One of the two major channels for policy diffusion could hence be transnational communication and international socialisation. This channel could be divided into two distinct sub-channels: On the one hand, learning and, on the other hand, emulation resulting from integration at the international level. The first sub-channel is largely based on rationalist assumptions that states are rational actors pursuing their national interest. The latter sub-channel is predominantly based on constructivist assumptions that consider the state being embedded in the framework of international institutions and norms, which influences preferences and concerns of domestic actors. Both of these dynamics could work together or separately in policy diffusion processes. Countries could engage in rational learning when they are searching for a solution to a given problem. At the same time, an increasing number of countries gets involved in international networks where common discourse could be established and processes of socialisation could take place, which would influence domestic problem perceptions and preferences. (Falkner 2006)

##### *Learning*

In environmental matters, many countries face similar problems due to comparable domestic developments like industrialisation, consumption patterns and life styles. Given these similar problems, some countries could engage in rational learning from each other to find suitable and efficient solutions. They could have a look across borders to learn from other countries' experiences. The main reason would be, that it is easier and more efficient to assess experiences that others have already made than inventing a completely new solution, which has not been tested in practice before. Uncertainty about the success of a policy measure could be reduced through learning. If the policy in place in another country has already demonstrated that it addresses a problem effectively, this could provide decision-makers with a powerful argument in favour of doing likewise. Furthermore, learning from other political entities could be an efficient alternative for countries with limited resources. When drawing from another political entity's experiences, a country could obtain studies and information concerning the policy measure in question. This could be an efficient and fast way of circumventing costly and lengthy own assessments. (Tews and Busch 2001: 180, Dolowitz 2000: 13) The higher the irreversible political and economic costs of adopting a policy are, the more governments are assumed to rely on solid information to minimise the investment risks. (Brooks 2007: 705) Some countries could send delegations abroad to innovative and advanced countries with the specific aim of learning about particular policies. They could meet a variety of

stakeholders and gather information on how a certain problem is tackled and how successful policy measures are implemented. Hence, the provision of extensive information could be an important element favouring policy diffusion via the learning sub-channel. Generally speaking, it could be expected that the more information is available and accessible to a decision-maker the more likely he/she is to use this information in its decision-making considerations. (Joergens 2004: 252)

#### *Emulation*

Besides facilitating the conscious and active search for solutions to similar problems the international scene could also provide for another related sub-category. This is the emulation of policy as a result of international socialisation. It is assumed that with increasing globalisation, trade liberalisation and growing global environmental problems, countries integrate in the international community and participate in different international regimes. With this socialisation process they could contribute their own ideas and goals to international discussions and, in return, international regimes could provide for channels to transmit global concerns and norms back to national arenas. The international scene appears to have developed into more than only a venue for multilateral negotiations. It seems to have its own dynamic. International organisations could be more than only negotiation facilitators. They could get actively involved in benchmarking, agenda setting and creating a common discourse and a common problem perception amongst their members. International organisations thereby could provide information on innovative pioneer policies and promote them, which could foster and enhance policy diffusion. (Kern, Joergens and Jaenicke 2001, Tews and Busch 2002: 169-70)

Being integrated in the international community, political entities could try to shape the course of action on the international scene. They could strive for recognition as legitimate and respected member. Once a policy has spread from a pioneer political entity to a significant number of other countries, national decision-makers may consider following this trend and introduce this particular policy. The more countries introduced a policy, the more international and possibly also domestic pressure for conformity could occur. A dynamic could evolve that incites other countries to introduce similar policy to boost their image as legitimate member of an environmentally responsible global society and adopt a policy to avoid being considered a laggard. (Tews and Busch 2001: 180, Brooks 2007: 704, Tews, Busch and Joergens 2003: 572-5, Drezner 2001: 57)

Furthermore, with a growing number of countries adopting a policy, uncertainties about impact and efficiency could decrease. In addition, emulation of another political entity's policy could provide legitimacy for implementing new policy domestically. It could be easier for decision-makers to justify a measure if they can point to other countries' activities in the same area.

The pioneer political entity may act as an active driver of policy diffusion. It could promote its own approaches amongst other states and organisations. Having introduced a policy as the first or one of the first could under certain circumstances bring a comparative advantage for the pioneer(s). It could be in their interest to promote their own policy and to encourage other countries to introduce similar requirements. By moving first, pioneers could try to avoid future economic and political disadvantages and adjustment costs by actively shaping international policy according to their own national patterns and traditions instead of waiting for other, maybe very different, approaches to occur. Pioneers could shape the direction in which international policy develops. (Joergens 2004: 252-4, Tews, Busch and Joergens 2003: 574) The EU for example actively promotes its policy by transferring

know-how, providing financing for the environment in third countries<sup>7</sup> and maintaining formal and informal dialogues<sup>8</sup> and exchanges with a number of third countries and international organisations.

But not only international organisations and pioneers could be important actors facilitating and encouraging policy diffusion. Non-state actors such as epistemic communities, NGOs and private business could also play an important role. Decision-makers could welcome the provision of information by these non-state actors since they are often faced with complex and technical issues. They could rely upon experts for advice and information. Epistemic communities and networks have occurred increasingly in recent times. They generate scientific data that fuels the international discourse on specific environmental issues. The input of this elite could have an important impact, raising specific issues on the international policy agenda and delivering to governments a sound informational basis for drafting environmental legislation. Many organisations are actively involved in promoting certain ideas and innovative policies. (Rose 1991) Moreover, many NGOs and private business actors are organised global networks. They work in a similar way to international organisations and epistemic communities by distributing information about innovative policies, benchmarking and publishing reports. NGOs generally promote policy that raises the environmental protection standard. But also private business actors could promote environmental legislation. This would generally be the case when it benefits their operations by creating one set of requirements globally or generating a competitive advantage for themselves over some of their competitors.

#### **4.2. Economic Interdependence and Regulatory Competition**

The second distinct channel of policy diffusion could be provided through regulatory interdependence between political entities. The world becomes ever more interdependent and state boundaries become ever more porous. Economic globalisation and international trade link markets together and connect national, sub-national and supra-national policy-making to other political entities' decisions. Decisions in one place could have implications for decisions in another place. (Brooks 2007: 702-3, Rosenau 1999: 291-2)

Regulatory competition creates first mover advantages. In most cases environmental policy is linked to a technological solution such as more efficient machines and new methods. The so-called Porter hypothesis assumes that high environmental standards improve industry's competitiveness. On the one hand, companies could gain a competitive advantage when developing technological solutions responding to these standards. When these standards diffuse internationally, innovative companies could export their technologies. On the other hand, strict environmental standards could lead to reduction in waste, emissions or otherwise lead to more resource efficient production methods. These innovations could bring cost benefits for industry. (Porter and van der Linde 1995, Jaenicke and Jacob 2004)

For multinational companies it could be economically viable to take on the requirements of the country with the highest standards and apply them to their whole production in order to avoid transaction costs. One single supply chain and production method could bring economies of scale and simplify procedures. If multinational companies with their vast network of suppliers introduce high environmental requirements in all their operations, even in locations where there is no legal obligation to do so, they could have a tremendous impact on industry, in particular countries where most of these suppliers are located – should these countries not have the respective requirements already. National policy makers generally have an interest in ensuring their domestic industry's competitiveness.

<sup>7</sup> For further information see: [http://ec.europa.eu/environment/international\\_issues/financing\\_en.htm](http://ec.europa.eu/environment/international_issues/financing_en.htm)

<sup>8</sup> See for example: [http://ec.europa.eu/environment/international\\_issues/bilateral\\_en.htm](http://ec.europa.eu/environment/international_issues/bilateral_en.htm)

They could want to prepare their domestic industry for international competition. This could be an incentive to introduce legislation similar to the pioneer legislation in order to prepare domestic producers for complying with the high standards. The response could however also be non-legislative measures such as awareness-raising and voluntary industry codes of conduct. Business could also put pressure on national governments to adopt the high standards set by another political entity for other reasons. They could try to avoid losing out on competition in the domestic market where lower requirements apply. By lobbying for higher environmental standards a level playing field with other domestic producers would be guaranteed for the case they would change their entire production to the higher standards. (Vogel 1997: 561-3, Joergens 2004: 252-4, Tews and Busch 2002: 169)

This channel could be especially relevant in highly globalised sectors with significant supply chain linkages and in cases in which the pioneer has a significantly big market for the product or service that it sets standards for. When products marketed on the political entity's market are produced outside its territory, its legislation could directly shape production in third countries.

## **5. Country-, Problem- and Legislation-specific Variables**

Despite the existence of one or several of these channels and sub-channels of policy diffusion, a political entity could nevertheless decide not to act and not to introduce legislation or another measure. Different factors related to decision-makers' policy preferences, country-specific public policy traditions, existing legislation, properties of the problem and specificities of the pioneer legislation could play an influential role.

### **5.1. Country-specific Variables**

One aspect that is not considered in most diffusion literature is the aspect of public policy-making decisions in the country that takes over pioneer legislation. As already mentioned, diffusion is not an automatic process. Most importantly, it should be analysed what motivates or discourages decision-makers to follow pioneer political entities' leadership. In public policy literature, authors such as Sabatier and Hall identify two determining factors for this purpose. These are the policy preferences of the ruling government and the existence of a favourable supporting network or coalition (Hall 1993, Sabatier 1998). Hence, the political ideology and goals of the respective national government appear to be important factors for policy diffusion to take place. Governments seem not to decide in a neutral and depoliticised way. The decision for or against pursuing a legislative action and its content could be seen in the context of political interests and power. Actor's perceptions appear to be filtered by their pre-existing normative beliefs. (Sabatier 1998) Therefore, the political ideology of the ruling party or coalition could be a decisive variable for policy diffusion. A liberal oriented government might show more reluctance to introduce new regulation since concerns about putting too much burden on domestic actors might prevail. Other soft policy tools and market forces might be favoured alternatives by such governments. Yet, other governments of other political beliefs might be much more inclined to introduce interventionist measures and to take over pioneer policy. Some governments could have economic growth and competitiveness as a priority ranking higher than environmental protection concerns. This might be a reason for significant differences in approaches to environmental policy and receptiveness to policy diffusion. For example in the climate change debate, newly emerging economies such as China and India appear to have different policy priorities than Europe. Economic growth seems to rank higher on their political agenda than environmental protection.

But decision-makers seem not to decide in a vacuum. The decision-making process appears to be influenced by other stakeholders such as interest groups, the media and public opinion. (Etheredge 1981: 135) Furthermore, it could be an important element for a policy to be successfully introduced to have the support by interest groups such as NGOs and industry. Decision-makers generally appear to strive for public support for their actions, having the next elections in mind. Based on these assumptions, Sabatier (1998) underlines in his analysis of the public policy process the importance of what he calls 'advocacy coalitions'. These are groups that include decision-makers from different levels but also interest groups, journalists, researchers and policy analysts. An advocacy coalition shares a common belief system. And in addition to the belief system individual and organisational self-interest plays an important role. For any policy or issue area there is a limited number of advocacy coalitions (generally between one and four, on average two). Policy brokers, mostly elected officials or high civil servants, link the coalitions and try to keep the political conflict within limits. One coalition dominates and determines the policy outcome. Information about a pioneer policy could change a coalition's understanding of one or a number of aspects that are important to its belief system. This change in the belief system could trigger the call for introduction of a certain policy. Hall (1993) also shares Sabatier's analysis that networks of institutionalised relations between state and society shape public policy outcomes. In his view, political actors create policy networks. Derived from this public policy literature it could be concluded that for policy diffusion to take place domestic groups of actors have to believe that there is a benefit in introducing pioneer legislation. The support of stakeholders other than the government itself could enhance the likelihood of policy diffusion. Therefore, the controversy of a policy could be an important factor. The different interests involved such as strong industry and NGOs could create support for or resistance against the diffusion of a policy. DeSombre (2000), when analysing the dynamics of internationalisation of US environmental policy through threats or imposition of economic sanctions, concluded that internationalisation was mostly occurring in cases in which environmentalists and industry acted together. It could be assumed that in the cases of voluntary policy diffusion the dynamics are similar. However, it should be noted that the applicability of these approaches is confined to states that have some degree of coordinated dissent from the dominant coalition. It could not be applied to dictatorships.

Furthermore, whether or not a country decides to become active and to learn from EU experiences, to emulate EU legislation or to react due to interdependence considerations could be influenced by its political and administrative structures. Existing policies, institutions, decision-making procedures and regulative traditions influence whether and how policy is taken over from another political entity. Major divergences in national conditions and structures could most likely lead to substantive changes in the policy that is transferred or it could not be transferred at all due to too high adjustment costs. If the existing legislative framework in a country is not compatible or not to be combined easily with the pioneer legislation in question a major effort of changing existing laws and making them fit with the new idea would be very resource intensive. If, however, there is an easy technical solution to the problem or if the policy only requires minor changes to the existing regulatory framework decision-maker might be more inclined to introduce pioneer legislation. In cases that require correcting of existing political or institutional paths and solving conflict with the current policy landscape it could, furthermore, be difficult to obtain the necessary consensus amongst all relevant domestic decision-makers and stakeholders. There could hence be a certain path dependency on previous policy decisions and the existing legislative framework. This could potentially be a major barrier to policy diffusion.

The domestic administrative, economic and scientific capacity to adopt and implement a policy could be another determining factor. A country might not have the necessary capacities to introduce a policy due to other priorities. Especially developing countries and countries in transition might encounter this capacity barrier. They might be forced to give priority to legal obligations from international agreements on more urgent issues on their national policy-making agenda. (Joergens 2004: 257, 273, 275)

### **5.2. Problem-specific Variables**

Besides the very important dynamic of the domestic public policy process, properties of the problem that is attempted to be solved by pioneer legislation could influence the likelihood and speed of diffusion. The urgency of the problem could be crucial since, in urgent matters, governments might not have enough time and resources to design their own measure. The threshold to act could be lower and the need to decide fast could incite decision-makers to look at what is being done in other countries. The visibility of the problem could also play a role. Should the public put pressure on the government to solve a problem, the latter could try to act fast. (Joergens 2004: 256, Tews and Busch 2001: 172) Furthermore, technical feasibility could foster or slow down diffusion. Very complex and demanding policies could be expected to diffuse slower. If technological solutions introduced or required by the pioneer policy are widely available it could be more likely that the policy is taken over by other governments. (Jaenicke and Weidner 1997: 310)

### **5.3. Legislation-specific Variables**

Legislation could be divided into product- and process-related laws. Process-related legislation sets requirements that production, consumption and end-of life treatment on domestic territory have to comply with. It puts obligations on different actors that are active on the domestic territory. Product-related legislation sets specifications for products that are being placed on the domestic market. This type of legislation could, under certain circumstances, have a direct impact on products produced in third countries. (Scharpf 1997) Similarly could services that are provided by third country companies on the domestic market have a direct impact. One example is the recently adopted inclusion of the aviation sector into the EU emissions trading system (ETS). EU and non-EU air carriers flying into an EU airport have to fulfil obligations resulting from the ETS. Process-related legislation, on the contrary, could only have an indirect impact on third countries. But also product-related legislation could only have an indirect impact in case of fragmented markets that are little globalised and hence the pioneer legislative requirements could not be transported through international supply chains.

Product policy that improves products in terms of their performance, such as less consumption and production externalities, could bring a competitive advantage for domestic manufacturers on the global market and could be expected to diffuse relatively fast. Regulation related to production methods that potentially increase costs for manufacturers could be seen as competitive disadvantage. This type of regulation could be expected to diffuse slower or not at all. Voluntary instruments, since they often have less significant implications for the target groups, could be expected to diffuse easier.

## **6. Conclusions**

The above described channels and sub-channels of policy diffusion seem not mutually exclusive and in most cases policy diffusion could occur through a combination of channels. However, it does not seem to be necessary that more than one sub-channel exists in order to facilitate diffusion. Nevertheless, it could be

expected that the existence and combination of different channels increases the likelihood of policy diffusion. Policy diffusion channels could be expected to be stronger and more developed the more a country is open to international trade and integrated in the international web of formal and informal organisations and interactions. A very protectionist state would therefore be less receptive to policy diffusion.

Additional country-, problem- and legislation-specific variables appear to be important factors for the diffusion of high standard environmental policy. In an ideal world all of the above described variables would be favourable and policy would diffuse fast and easy throughout the world. But of course, the world is not ideal and policy appears to also diffuse if not all of these variables are favourable. This could be expected to have an impact on the speed of diffusion and possibly also on the outcome. In general the variables could be seen as factors that are enhancing or slowing down policy diffusion. However, there is one variable which seems to be more important than the others. This is the variable related to decision-makers' policy preferences and the support by advocacy coalitions. In the absence of this condition, policy appears unlikely to diffuse to the respective country. This variable appears to be necessary. The other country-, problem- and legislation-specific variables seem to be supporting but not indispensable. If one of these variables is strongly favourable it could compensate for unfavourable other ones. If the necessary variable is very strong, the existence of favourable supporting variables could become less important in order for policy diffusion to take place. However, the more unfavourable variables there are, the more it seems to be likely that the outcome of the policy diffusion process is minimal.

The above outlined draft for a conceptual framework could be elaborated and serve as the basis for hypothesis and an in-depth study of the motivations of third countries to follow EU regulatory leadership.

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