

Horizontal co-ordination of policies and application of the OMC in EU environmental policy

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Overview

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Why environmental OMCs?

Why environmental OMCs?

- **OMC and EU legislative competencies**
 - **OMC is usually applied in areas with weak EU legislative competencies**
 - **Because the EU has strong legislative competencies in the environmental field, one would expect no or only a few environmental OMCs**
 - **But the rise of the sustainable development paradigm suggests that OMC may be usefully applied in EU environmental policy**

Why environmental OMCs?

- **Challenge to “traditional” regulatory approach based predominantly on legislation**
 - effectiveness concerns: EU environmental legislation has so far failed to effectively address “new” environmental problems cutting across environmental media and linked to sectoral structures in transport, agriculture, energy etc.;
 - efficiency concerns: there is increasing pressure to reduce the economic costs of EU environmental legislation and a growing emphasis on economic competitiveness.

Why environmental OMCs?

- **Sustainable development and environmental policy integration (EPI)**
 - Effectiveness and efficiency concerns contributed to the rise of the sustainable development paradigm on the EU agenda;
 - A provision in the 1997 Amsterdam Treaty requiring the integration of environmental concerns into the definition and implementation of sectoral Community policies marked the EU commitment to sustainable development conceived of mainly as EPI;
 - This was followed by the environmental Cardiff Process which has some OMC characteristics. Starting in 1998, the Cardiff Process required many sectoral formations of the Council of Ministers to develop strategies how to integrate environmental concerns into their respective activities;
 - Detailed EU environmental legislation is increasingly replaced by comprehensive and flexible framework directives designed to improve integration and efficiency.



Why environmental OMCs?

- **OMC may address some challenges raised by EPI, framework legislation, and competitiveness and subsidiarity concerns because of its reliance on learning and networks**
 - OMC emphasis on learning
 - promises to enable actors to develop a broader view of problems and solutions which may better accommodate environmental and sectoral concerns;
 - Learning based decisions can be expected to comply with the subsidiarity principle (identifying most effective level of intervention) and can to a some extent be based on the authority of knowledge and successful outputs (“output legitimacy”);
 - may help to improve the implementation of framework legislation.
 - OMC network structure
 - fits the multi-level structure of EU environmental governance with interlocked competencies and a highly developed network of societal stakeholders;
 - may also provide participatory democratic legitimacy;
 - may help to mobilise resources for implementation of framework legislation.



OMC in EU environmental policy

OMC in EU environmental policy

- **Overview of environmental OMCs**
 - **No official purely environmental OMCs, but**
 - Environmental Technology Action Programme (ETAP) which is formally partly based on OMC;
 - the environmental dimension of the Lisbon Strategy.
 - **Environmental measures which are not officially labelled as OMC but are very similar to OMC:**
 - Common Implementation Strategy of the Water Framework Directive (WFD-CIS);
 - Others, such as the Sevilla Process, which identifies Best Available Techniques (BAT) under the Integrated Pollution Prevention and Control (IPPC) Directive.

OMC in EU environmental policy

- **Why include „unofficial“ OMCs?**
 - **There is no commonly agreed definition of the OMC. The 2000 Lisbon European Council definition is an ideal type because existing OMCs, including the employment and economic co-ordination OMCs, do not closely correspond to the definition.**
 - **„Unofficial“ OMCs, such as the WFD-CIS, may have more OMC characteristics than some official OMCs.**
 - **Rather than being a temporary phenomenon, it seems likely that diversity among OMCs is inherent to OMC because high flexibility is needed to adapt OMC to different contexts.**

OMC in EU environmental policy

- **Origins and evolution of the environmental dimension of the Lisbon Strategy**

- 2000 Lisbon Strategy focuses on competitiveness & employment; has no environmental dimension;
- 2001 Gothenburg European Council: adopts conclusions on EU Sustainable Development Strategy (SDS) which “adds a third, environmental dimension to the Lisbon Strategy and establishes a new approach to policy making”;
- 2003 Spring European Council notes Commission “intention to carry out an annual stocktaking of the Cardiff process of environmental integration and a regular environment policy review [which are] to be taken into account in [...] Spring reports, starting in 2004”;
- 2005 Review of Lisbon Strategy and of EU SDS.



OMC in EU environmental policy

- **Processes and instruments of the environmental dimension of the Lisbon Strategy**

- Annual review of SDS by Spring European Council reviewing the Lisbon Strategy based on:
 - Structural Indicators proposed by Commission, agreed by Council:
 - Since 2002 environment is one of six areas;
 - 3 environmental indicators (greenhouse gas emissions; energy intensity of economy; volume of transport per GDP) out of a total of 14; until 2004: 7 out of 42 indicators for environment.
 - Commission's annual Environmental Policy Review and Cardiff Process stocktaking, including review of "new approach to policy making at national and EU level":
 - Improved public consultation;
 - Sustainability Impact Assessment.

OMC in EU environmental policy

- **Environmental Technology Action Plan (ETAP)**
 - Aims to promote the development and use of environmental technologies;
 - Is an offspring of the Lisbon Strategy;
 - Work on ETAP began in 2004; the Commission published a progress report in 2005;
 - Despite some progress, e.g. on green public procurement (GPP), ETAP is still in the process of being set up;
 - For GPP some targets and benchmarks have been agreed, but DG Environment now seems to avoid using the term OMC which is seen as a potential threat to EU environmental legislation;
 - It is too early to assess the performance of ETAP.

OMC in EU environmental policy

- **The Water Framework Directive (WFD)**

- The WFD came into force in 2000. It aims to improve water quality in the EU and to achieve "good status of water quality" by 2015.
- It uses a broad, integrative approach in at least two ways:
 - the WFD covers a wide range of water resources, including rivers, lakes, ground water, and coastal waters;
 - it is concerned with environmental and economic aspects linked to the concept of sustainable use of water resources.
- The WFD's "framework" character means that many critical issues are left unresolved and must be addressed in the implementation phase by adoption of "daughter" directives, "comitology", or Member States individually or collectively.
- The Common Implementation Strategy (CIS) aims to help Member States to implement the WFD and to avoid implementation failure as a result of incompatible implementation practices among Member States.

OMC in EU environmental policy

- **The Common Implementation Strategy (CIS)**
 - **was established in 2001 jointly by Member States' water directors and the Commission.**
 - **has a three level institutional structure:**
 - The biannual meeting of the water directors provides strategic guidance;
 - The Commission chairs the Strategic Co-ordination Group (SCG) which co-ordinates activities at the working level and provides input to the meeting of the Water Directors. Member States are represented in the SCG;
 - Working groups consult on the legally non-binding technical guidance notes which are the main output of the CIS. Most working group members are national officials, but there is also stakeholder participation.
 - **is guided by strategic documents which are reviewed biannually by the water directors.**
 - **has so far completed two phases:**
 - the first phase resulted in the adoption of the guidance notes in 2002;
 - in the second phase the guidance notes were tested in pilot river basins. The CIS was reorganised to improve co-ordination and address cross-cutting issues more effectively.
 - **The WFD obliges Member States to regularly inform the Commission of the state of implementation. The Commission may use the benchmarks developed in the framework of the CIS as a tool for reporting and monitoring.**



Assessing the performance of environmental OMCs



Performance assessment

- Zeitlin et al. analyse the performance of the OMC along four dimensions:
 - Substantive change: this includes a wide range of effects ranging from the emergence of a "common language" to "hard" policy impacts "on the ground";
 - Procedural shifts in governance and policy making: has the OMC led to organisational changes or resource shifts within the system of governance?
 - Participation and transparency: has the OMC led to more transparent decision-making processes and broader participation of interested parties?
 - Mutual learning (simplified framework): this covers various forms of learning. Examples include heuristic learning which leads to the adoption of new or modified preferences and aims; mutual learning as a result of insights into different solutions for similar problems, and reflexive learning based on critical reflection of previous experience.



Performance assessment

- **Environmental dimension of the Lisbon Strategy**

- Substantive change:

- overall impact was small but some impact in areas in which environmental protection offers opportunities for achieving the Lisbon Strategy goals of increasing competitiveness and employment until 2010:
 - it contributed to the launch of the Environmental Technology Action Programme (ETAP);
 - more generally, it contributed to raising awareness of synergies between environmental protection and competitiveness/ employment among political and administrative elites.
- In areas where environmental protection was seen as less likely to contribute to (medium-term) competitiveness and employment there was no sizeable impact:
 - environmental issues, indicators, and league tables were included in the European Commission's Spring Reports, but they remained "add-ons" unconnected to the rest of the reports;
 - the original economic and social aims of the Lisbon Strategy were, if anything, only minimally adjusted to take account of the fact that an environmental dimension had been added to the Lisbon Strategy.



Performance assessment

- **Environmental dimension of the Lisbon Strategy**

- Procedural shifts in governance and policy making:
 - use of environmental indicators in the Commission's Spring Reports;
 - contributed to improvements in capacities for data collection, and designing, identifying and using common environmental indicators at EU and national levels;
 - prompted the production of the Commission's annual environmental policy review (EPR) and a review of the Cardiff Process of environmental policy integration.
- Participation and transparency:
 - the process is dominated by Commission and Member State officials; the development and selection of indicators, the drafting of the Commission's Spring Reports, and the decisions taken in response to the reports neither involve the European Parliament nor environmental NGOs. In addition, these processes are intransparent because they are shielded from public scrutiny.
- Mutual learning:
 - very modest heuristic learning, i.e. raising awareness of the potential for short and medium-term synergies between environmental protection and economic competitiveness and employment.



Performance assessment

- **Environmental dimension of the Lisbon Strategy**
 - **Overall assessment:**
 - **The Lisbon environmental dimension had some effects in terms of substantive change, governance, and learning; however these effects were overshadowed by severe shortcomings:**
 - in particular with respect to reflexive learning as the original, exclusively economic and social aims of the Lisbon Strategy were not revised in response to the addition of the environmental dimension;
 - Substantive change, awareness raising, and heuristic learning: measures and effects were limited to those that were compatible with the medium term timeframe and the economic and social aims of the Lisbon Strategy;
 - Governance: lack of organisational changes to integrate the environmental dimension into the Lisbon Strategy; environmental indicators remained “add-ons”; the EPR has insufficient political status and its contents are too unspecific to provide input to the Lisbon Strategy; Cardiff Process was only separately reviewed once;
 - Transparency is low and there is no participation by stakeholders and civil society.



Performance assessment

- **Common Implementation Strategy (CIS)**
- Substantive change: the CIS has
 - resulted in agreement on guidance notes which have been used by Member States to implement the WFD. This has accelerated implementation and contributed to a convergence of national implementation practices, although some large Member States seem to have taken the guidance notes less seriously than many small Member States;
 - enabled discussion and may provide guidance on issues not formally covered by the WFD, but which constitute important conditions for implementation, such as flood protection and wetlands management.
- Changes in governance and policy making: the CIS has
 - accelerated the creation of national administrative capacities for implementation;
 - strengthened the Commission's capacity to monitor implementation;
 - provided for improved transitional co-ordination of river basin management.

Performance assessment

- **Common Implementation Strategy**

- **Participation and transparency:**

- Business representatives and environmental NGOs participate in working group meetings and in the Strategic Co-ordination Group;
 - The CIS seems to be sufficiently transparent only for those actors who take an active interest.

- **Mutual learning:**

- The production of the CIS guidance notes was partly based on mutual learning in the sense of identification of suitable practices;
 - Giving important WFD concepts such as "good status of water quality" a substantive meaning required significant heuristic learning;
 - Reflexive learning occurred at several levels: the strategic documents were regularly updated against the background of past experience; the institutional structure of the CIS process was adapted as a result of lessons drawn from past performance; the guidance notes were tested in pilot projects.



Performance assessment

- **Common Implementation Strategy**

- Overall assessment:

- the CIS has influenced substantive outcomes and governance structures through mutual, heuristic, and reflexive learning. Civil society and commercial interests have been increasingly involved in the CIS. This has increased the legitimacy of the WFD, in particular in the eyes of environmental NGOs.
- Despite overall success, some problems and limitations remain:
 - the guidance notes are clearly suboptimal from a pure learning perspective because they also reflect political compromises;
 - in addition to learning and political compromise, agreement on the guidance notes partly reflected a lack of know-how, in particular in the new and smaller Member States;
 - environmental NGOs complain that they are excluded from the most important decisions taken by the water directors.



Conclusions

Conclusions

- **What explains variation in OMC performance?**
 - **The performance of the environmental dimension of the Lisbon Strategy was disappointing, whereas the WFD-CIS performed well. Explanations for this variance could include the following:**
 - The WFD-CIS is concerned with politically sensitive issues in terms of subsidiarity and sovereignty; the Lisbon environmental dimension is concerned with politically sensitive issues in terms of the left-right ideological dimension and is therefore more politicised;
 - The WFD-CIS is supported by a differentiated institutional structure of highly specialised committees which the Lisbon environmental dimension lacks;
 - The legal obligation to implement the WFD creates incentives for Member States to use the opportunities offered by the CIS which are absent in the case of the environmental dimension of the Lisbon Strategy;
 - Legitimacy and learning benefit from participation by civil society in the case of the WFD-CIS, whereas the environmental dimension of the Lisbon Strategy is cut off from input and pressure by civil society.