

# The Influence of Interest Groups in the European Parliament: Does Policy Shape Politics?

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## **Declaration**

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## **Abstract**

For a long time, the European Parliament (EP) was viewed as a lobbying sideshow mainly to be targeted if interest groups were unsuccessful at getting their demands included in the European Commission's proposal. Members of the European Parliament (MEPs) have a reputation for being particularly open to diffuse interests who, due to their limited resources, use 'friendly' MEPs to put pressure on the European Commission and the Council. The notion of the EP representing diffuse interests conflicts with the broader political science literature on interest groups, which dwells on business bias. There are, however, good reasons to doubt the EP's reputation as a defender of diffuse interests. Much of our current knowledge about the EP's interest group politics stems from a time when the EP's legislative powers were more limited. Within the last twenty years, the EP has evolved from a 'multilingual talking shop' to a genuine co-legislator with the Council. The increased powers of the EP raise the question of whether EP interest group politics has normalised, whereby the assumptions of the interest group literature would seem to reflect the reality of the EP. A common assumption in the interest group literature is that diffuse interests carry limited weight in decision-making because their resources and interests remain subordinate to that of business. However, business influence differs across policy fields depending on how the costs and benefits related to policies are distributed. The aim of my thesis is to investigate how the distribution of costs and benefits of legislative proposals influence interest groups' likelihood of winning particular conflicts in the EP. This is done by examining four legislative dossiers in the areas of employment, consumer, and environmental policies. The thesis draws on the process-tracing of EU documents, and 144 interviews with MEPs, EP officials, and interest groups.

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It all started in the European Parliament (EP) back in March 2007. I was sitting in a committee meeting of the Transport and Tourism committee taking minutes on the debates on 'the EU-US Open Skies Agreement' for the Danish Permanent Representation, where I was doing a six-month internship. During the committee meeting, several MEPs uttered their discontent with one of their colleagues. This was because one MEP had tabled an amendment and forgotten to delete the logo of the company, who had drafted it. The incident made me wonder how much influence interest groups have on MEPs' work and to what extent they are able to leave their fingerprints on the EP's reports.

The EP is in many ways a fascinating institution, not least because it is the only directly elected transnational parliament in the world, but also because its legislative powers have grown significantly over the last two decades from a multilingual talking shop to a genuine co-legislator with the Council of the European Union. Understanding how decisions are made in the EP and what role lobbying has for MEPs' preference formation is important, therefore, for understanding EU policy outcomes. My interest in the EP as an institution and in lobbying was crucial in my decision to do a PhD on the influence of interest groups in the EP.

Naturally, I did not know much about what it was like to do a PhD before I started. When asking fellow researchers about their experiences of undertaking their PhD they reported back: 'you will be mad at the end of it' and 'you will cry, and hesitate'. My conclusion was that these statements were accurate, but the process of writing my own thesis involved more joy than tears, and many exciting research moments. Doing a PhD is not only about 'getting the thing done' and improving your skills as a researcher, but it also shapes your everyday life and, to some extent, who you are. I have lost count of the hours spent analysing everyday life situations through the lens of public policy models, and flying off on an academic tangent. Just like political decision-making, the PhD process is by no means a straightforward process with clear, well-delineated

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Maja Kluger Rasmussen,  
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## **Abbreviations:**

ACEA: European Automobile Manufacturers' Association

AGRI: European Parliament's committee on Agriculture and Rural Development

ALDE: Group of the Alliance of Liberals and Democrats for Europe

BEUC: European Consumer's organisation

BoP: Back of pack

CAP: Common Agriculture Policy

CARE: European Road Accident Database

CEEP: the European Centre of Enterprises with Public Participation

Cereal: the European Breakfast Cereal Association

CEPS: European Wine Spirits Organisation

CIAA: the Confederation of Food and Drink Industry (now known as FoodDrinkEurope)

CLECAT: the European Association for forwarding, transport, logistic, and customers services

CO<sub>2</sub>: Carbon Dioxide Emissions

COFACE: Confederation of Family Organisations in the European Union

COREPER: Committee of Permanent Representatives

DG: Directorate-General

DG SANCO: Directorate-General for Health and Consumer Protection

DTL: Danish Transport and Logistics Association

EEA: European Express Association

ECR: European Conservatives and Reformists

EDA: European Dairy Association

EFA: European Food Safety Authority

EHN: the European Heart Network

EMPL: European Parliament's committee on Employment and Social Affairs

ENSCA: the European Natural Sausage Casing Industry

ENVI: European Parliament's committee on Environment, Public Health and Food Safety

EDF: European Freedom and Democracy group  
EP: European Parliament  
EPHA: the European Public Health Alliance  
EPP: European People's Party  
EPP-ED: European People's Party – European Democrats  
ESA: European Snack Association  
ESBA: the European Small Business Alliance  
ETF: the European Transport Workers' Federation  
ETUC: the European Trade Union Confederation  
EU: European Union  
EUFIC: the European Food Information Council  
Eurocare: the European Alcohol Policy  
EWL: the European Women's lobby  
FEDEMAC: Federation of European Movers Associations  
FEMM: European Parliament's committee on Women's Rights and Gender Equality  
FIEC: the European Construction Industry Federation  
FoP: Front of pack  
FSB: Federation of Small Businesses  
GDA: Guideline Daily Amount  
Greens/EFA: Group of the Greens/European Free Alliance  
GUE/NGL: Group of the European United Left/Nordic Green Left  
IMCO: European Parliament's committee on Internal Market and Consumer Protection  
IND/DEM: Independence/Democracy group  
ICGA: International Chewing Gum Association  
IRU: the International Road Transport Union  
ITRE: European Parliament's committee Industry, Research, and Energy  
JLR: Jaguar Land Rover  
MEP: Member of the European Parliament  
MP: Member of Parliament  
Non-Governmental Organisation: NGO

NI: Non-Attached MEPs  
OLP: Ordinary Legislative Procedure  
PES: Party of European Socialists  
QMV: Qualified Majority Voting  
S&D: Group of the Progressive Alliance of Socialists and Democrats in the European Parliament  
SME: Small and Medium Enterprises  
SVD: Small Volume Derogation  
T&E: Transport and Environment  
TLN: Transport en Logistiek Nederland  
TRAN: European Parliament's committee on Transport and Tourism  
UEAPME: the European Association of Craft, Small and Medium-sized Enterprises  
UETR: the European Road Haulers Association  
UNESDA: the Union of European Soft Drinks Associations  
UNICE: the Union of Industrial and Employers' Confederation of Europe (now known as BusinessEurope)  
US: United States  
VDA: Verband der Automobilindustrie  
WHO: World Health Organisation  
WTO: World Trade Organisation

## **Introduction: Interest Group influence in the European Parliament**

Until recently, studies on lobbying in the European Union (EU) have paid little attention to the European Parliament (EP) and the many ways to influence it. Instead, scholars have focused their research lens on the European Commission, arguing that this is the most important lobbying addressee in the EU due to the Commission's agenda-setting role. In contrast, the EP has often been depicted as a lobbying sideshow mainly to be targeted if interest groups are unsuccessful in getting their demands included in the European Commission's proposal (Lehmann, 2009, p. 39). Members of the European Parliament (MEPs) have a reputation for being particularly open to diffuse interests<sup>1</sup>, who - due to their limited resources - use 'friendly' MEPs to put pressure on the European Commission and the Council of the European Union (hereafter the Council). The notion of the EP, representing diffuse as opposed to business interests, conflicts with the broader political science literature on interest groups which dwells on business bias.

There are, however, good reasons to doubt the EP's reputation as a lobbying venue for weak interests. Much of our current knowledge about the EP's interest group politics stems from a time when the EP's legislative influence was relatively limited. As a result of several formal treaty changes and the EP's creative use of its own Rules of Procedures to boost its competences, the EP has managed to 'haul itself up sufficiently to enjoy the status of the European Union's budgetary and legislative authority' (Westlake, 2007, p. 341). With the entry into force of the Lisbon treaty on 1 December 2009, the co-decision procedure has now become 'the ordinary legislative procedure' covering almost all areas of EU law. Arguably, as the powers of the EP have increased, so has the attention it gets from interest groups. Few interest groups risk leaving the parliamentary arena to their opponents and most interest groups adopt a belt-and-braces approach in which the institutional trio (the European Commission,

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<sup>1</sup> Diffuse interests are used to refer to interest groups who either face diffuse benefits or cost from legislation, as diffuse interests never face concentrated costs or benefits.



the Council of the EU, and the EP) is lobbied throughout the policy process (Mazey & Richardson, 2006, p. 260).

The increased powers of the EP have led some EU scholars to call it one of the most powerful legislatures in the world both in terms of its legislative and executive oversight powers (Hix, 2008). EU scholars are increasingly referring to the EP as a normal parliament rather than a *sui generis* institution (Hix, Roland, & Noury, 2009). This is because MEPs' legislative behaviour is mainly structured around the classical left-right dimension found in national politics. The four largest EP groups display very high levels of cohesion, and MEPs predominantly vote along trans-national political lines rather than national lines (Hix & Niury, 2009; Kreppel & Tsebelis, 1999; Scully, Hix, & Farrell, 2012). The purported normalcy<sup>2</sup> of the EP's power and legislative powers raises the expectation that its interest groups' politics might also have normalised, whereby the assumptions in the interest group literature would seem to reflect the reality of the EP. A common assumption in the interest group literature is for diffuse interests (such as environmental and consumer groups) to carry limited weight in decision-making because their influence remains subordinate to business interest. However, business influence tends to vary across policy domains according to the cost/benefit profile of legislative proposals (Olson, 1965, Wilson, 1974), the salience of issues (Baumgartner, Berry, Hojnacki, Kimball, & Leech, 2009a), and the informational and legitimacy needs of decision-makers (Bouwen, 2002, 2004, Coen & Katsaitis, 2013). In order to account for different patterns of interest group influence across policy domains, the research question this thesis asks is:

*How does the distribution of costs and benefits of legislative proposals influence interest groups' likelihood of winning particular conflicts in the European Parliament?*

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<sup>2</sup> Normality is, however, difficult to sustain when looking at the EP's control over the executive, the European Commission. The European Commission is not dependent on a continued majority in the EP, and no EP political group holds the majority in the EP. The EP lacks the cut and thrust of a governing party and no government is formed following EP elections.

Theoretically, the thesis draws on Wilson's politics of policy typology, which assumes that the mobilisation of interest groups and their likelihood of winning particular conflict differ across policy domains. Underscoring my research question is the enquiry into whether some policy areas are more susceptible to interest group influence than others. In order to answer the research question, four recent legislative dossiers in the areas of employment, consumer, and environmental policies are examined. The cases include proposals for:

- A regulation on setting emission performance standards for new light commercial vehicles as part of the EU's integrated approach to reduce CO<sub>2</sub> emissions from light-duty vehicles (the vans regulation)
- A regulation on the provision of food information to consumers (the food labelling regulation)
- A directive on the organisation of working time: persons performing mobile road transport activities (the road transport working time directive)
- A directive on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (the maternity leave directive).

The above dossiers were chosen for their diversity in the distribution of costs and benefits of cases studied in order to properly assess the extent to which policy shapes politics in the EP. The cases were studied using process-tracing of EU documents and lobbying letters, observations of EP committee meetings, and 144 interviews. I spent one and a half years in Brussels, which made it possible to follow meetings in the EP and talk both formally and informally with interest group representatives, MEPs, EP officials, and MEP assistants. During that period, I spent most days in the EP conducting interviews, attending committee meetings, public hearings, and lobbying receptions. My access to the EP premises gave me a unique opportunity to observe the daily routines of

MEPs and to talk informally to people working in Parliament over lunch or coffee. Some MEPs invited me along to political group meetings (which are usually closed to the public) or to their meetings with interest groups. The thesis is based on a qualitative comparative case study approach, which draws on process-tracing integrated with typological theory (e.g. Wilson's policy of politics typology). The combination of the two is useful for bringing to light the causal mechanism at work in my four case studies and the interaction effect between the independent variable (policy type) and the dependent variable (interest group influence).

The thesis makes a distinct contribution to the EU public policy literature, as well as the general interest group literature in a number of ways. Firstly, few scholars have studied the extent to which interest groups' lobbying activity and likely influence varies across policy domains (for an exception see Coen & Katsaitis, 2013). While scholars have characterised the EU interest intermediation system overall as being elite pluralist (see for instance Coen 1998; Eising, 2007), important variation is likely to exist across policy domains and EU institutions. Secondly, few scholars attempt to assess the influence of interest groups over EU policy outcomes (for some exceptions, see Bernhagen & Bräuninger, 2005; Klüver, 2013). A small number of academic articles and textbooks have provided a general overview of EU lobbying without touching upon the question of interest group influence (Aspinwall & Greenwood, 1998; Coen & Richardson, 2009; Eising & Kohler-Koch, 2005; Greenwood, 2011; Mazey & Richardson, 1993). Instead, scholars have focused their attention on the Europeanization of national interest groups (Bache & Jordan, 2008; Coen, 1998; Coen & Dannreuther, 2003; Quittkat, 2006), classifying interest group populations (Berkhout & Lowery, 2008, 2010), discussing when interest groups use access and voice strategies (Beyers, 2002; Coen, 1998; Eising, 2004), examining under what conditions interest groups gain access to the EU institutions (Beyers, 2004; Bouwen, 2002, 2004b; Broscheid & Coen, 2003a; Marshall, 2010), and discussing whether the EU system of interest group intermediation can be pigeon-holed as pluralist, corporatist, or neo-pluralist (Aspinwall & Greenwood, 1998; Claey's, Gobin, Smets, & Winand, 1998;

Greenwood, 2011; Schmitter & Streeck, 1991). Others have preferred to address the issue of interest group influence from a theoretical viewpoint, but their hypotheses remain largely unexplored (Bernhagen & Bräuninger, 2005; Broscheid & Coen, 2003a; Henning, 2004). Rather than tackling the question of influence head-on, researchers have used the level of access to decision-makers (i.e. face to face meetings) as a proxy for influence (Bouwen, 2004b; Eising, 2007). However, access to MEPs does not necessarily translate into influence because policy outcomes may not reflect interest groups' desired results, and competing interest groups might enjoy equal access to MEPs.

Thirdly, the thesis adds to our understanding of the role and influence of interest groups in the EP, which has until now remained undeveloped. Only a handful of studies have focused on EP lobbying (Bouwen, 2004b; Crombez, 2002; Earnshaw & Judge, 2006; Kohler-Koch, 1998; Lehmann, 2009; Marshall, 2010, 2012; Smith, 2008; Wessels, 1999). Research on EP lobbying has mainly examined whether interest groups target legislative friend, fence-sitters and/or foes (Crombez, 2002; Marshall, 2010), and to whom MEPs give access (Bouwen, 2004b; Kohler-Koch, 1998; Smith, 2008). Scholars have not studied interest group influence in the EP. My study therefore fills this gap by addressing the question of interest group influence in the case of the EP.

Fourthly, much of the existing research on the EP focuses solely on outcomes to the detriment of processes, such as studies on MEPs' legislative behaviour during roll call votes (see, for example, Hix, et al., 2007; Hix, et al., 2009; McElroy, 2006; Yordanova, 2011). This has left us with a limited understanding of policy deliberations which take place before a dossier is voted upon at plenary and interest groups' influence on MEPs' preference formation (Ringe, 2010, pp. 1-5). However, the nature of influence in the EP involves much more than final roll call votes. Influence can be exerted throughout the EP's legislative process through the inclusion or exclusion of amendments in the report of the responsible committee (Sorauf, 1992, p. 168).

Lastly and more generally, my research provides important insights for the EU legislative politics literature (such as Thomson, 2011; Tsebelis & Garrett, 2000) and for debates on the democratic legitimacy of the EU (such as Follesdal

& Hix, 2006; Majone, 2000; Moravcsik, 2002; Rittberger, 2005). Most studies on EU legislative politics seek to explain EU policy outcomes with reference to the bargaining between the EU institutions, while disregarding the role interest groups play in shaping these preferences (Crombez, 2002; Thomson & Hosli, 2006; Tsebelis & Garrett, 2000). Understanding the influence of interest groups on decision-making is important for understanding EU policy outcomes. Moreover, studies on interest group influence can cast light upon the democratic potential of interest group involvement in EU policy-making. If certain policies are frequently biased in favour of some interest groups to the disadvantage of others, the democratic legitimacy and accountability of the EU is severely weakened (Klüver, 2010, p. 3).

Following this introductory chapter, **Chapter 1** sets up the theoretical framework by addressing the question of how interest group influence might vary across policy domains. The chapter discusses, in particular, the extent to which Wilson's politics of policy typology, developed in an American congressional context, can be applied to the EP. This is done by discussing Wilson's framework in the light of MEPs' informational and legitimacy needs, and the type of information provided by different interest groups.

**Chapter 2** presents the research design of the thesis and develops an analytical framework for assessing interest group influence. I outline the rationale of case selection, the operationalization of Wilson's framework, and the utility of using the method of process-tracing to answer my research question. It is important to point out that this thesis does not advocate a quantitative approach that would 'measure' interest group influence in a positivistic manner. Instead, I provide an assessment of interest group influence, based on a combination of different types of evidence used to indicate interest group influence.

**Chapters 3-6** constitute the empirical core of this thesis. **Chapter 3** examines the environmental case study – the vans regulation – and discusses whether the EP can still be regarded as an environmental champion, or if it simply reinforces the advantages of businesses (the automobile industry). The regulation represents a typical entrepreneurial politics case, in which the costs

are concentrated on the automobile industry and the benefits of cleaner air widely dispersed, increasing the risk of regulatory capture. The chapter shows that while the EP has in the past been seen as an environmental champion advocating the views of environmental groups, it now appears to be more of an environmental pragmatist. This has, in turn, reduced the privileged position once held by diffuse interests, and provided business groups with a more favourable EP arena in which they can advance their demands.

**Chapter 4** analyses the food labelling case – the regulation on food information to consumers - which contains a number of interesting policy issues engendering different types of politics. The case shows that one dossier can contain a large number of issues mobilising a large and diverse set of interest groups. While there were clear lobbying winners and losers on specific issues of the dossier amounting to business capture, the overall policy outcome largely reflects a compromise between opposing views. It is shown that interest group influence is dependent on the level of linkages between issues, the saliency of an issue, and the unity within a lobbying spectrum.

**Chapter 5** presents an employment case – the road transport working time directive – which constitutes a classic interest group politics case pitting special interests against special interests. The expectation from the interest group literature is to see compromises between opposing groups whenever both the costs and benefits of legislation are pinned to specific segments of society. However, compromises between opposing groups do not necessarily happen in the EP because employers' associations often find it difficult to have their voices heard in the EP whenever dossiers go to certain committees.

**Chapter 6** presents the last empirical case – the maternity leave directive – which, at first glance, appears to engender interest group competition (concentrated costs/concentrated benefits) but, on closer examination, represents an entrepreneurial politics case with concentrated cost/dispersed benefits. Again the expectation from the literature is to see policy outcomes favouring the cost-bearers (in this case, employers' associations) to the detriment of diffuse interests (labour unions and women's rights organisations). The case shows that policy only shapes politics in the EP under

certain conditions as interest group influence is dependent on the unity within a lobbying spectrum and the EP committee in charge of a dossier.

Building on the in-depth analysis of the four case studies, **Chapter 7** takes a broader view of the empirical studies and discusses the theoretical and empirical implications of the different case studies. I conclude that the distribution of costs and benefits arising from legislation only explains interest group influence under certain conditions. The extent to which interest groups manage to leave their fingerprints on EP reports is contingent upon both a number of actor-level and institutional level factors.

## **Chapter 1: Theoretical Expectations about Interest Group Influence**

This chapter sets out the theoretical framework of the thesis by addressing the question of how interest group influence might vary across policy domains. The common assumption of business dominance in policymaking is challenged by literature examining variation across policy domains (i.e. Lowi, 1964; Wilson, 1980). The basic tenet of this chapter is that, while business groups might dominate politics at a systemic level, variance in business influence exists across policy domains. Each policy domain deals with a distinct arena in which different interest groups mobilise in the policy process, and form different cleavages and coalitions (Pollack, 1994). The chapter focuses the lens on Wilson's 'policy defines politics' framework, which forms the theoretical framework of the thesis. The chapter discusses, in particular, the extent to which Wilson's framework, formulated in an American congressional context, can travel to the EP institutional context. This is done by linking Wilson's framework with theoretical considerations of input/output legitimacy, the kind of information provided by different types of interest groups, and MEPs' informational needs. The chapter is divided into three sections. The first section examines common assumptions about interest group influence, and particularly draws attention to the importance of studying interest group influence across different policy domains. The second section discusses how well Wilson's politics of policy framework might apply to the EP by looking at the distinctiveness of EU policies, European interest groups, and the EP. The last section discusses how the EP's internal organisation influences where and how lobbying takes place.

### **1.1 Common assumptions in the interest group literature**

One of the most widely accepted theoretical assumptions of public policy is that business groups carry more weight in decision-making than diffuse interests (such as consumer groups, human rights groups, and environmentalists).



Business interests are assumed to dominate policy-making at the expense of diffuse interests because they are better organised, hold technical information of great relevance to policy-makers, and play a key role in the economy in terms of employment and economic growth (see for instance, Baumgartner & Leech, 1998; Olson, 1965; Salisbury, 1984; Schattschneider, 1960).

Firstly, small groups with a concentrated stake in an issue are able to mobilise more easily than diffuse interests. Faced with the Olsonian collective action dilemma, the interest of the broader public often remains unorganised as there are no rewards associated with active group participation. Without selective incentives - benefits that contributors and only contributors enjoy - individuals are tempted to free-ride on the efforts of others. Diffuse interests can neither prevent nor punish free-riders from enjoying group benefits should they come to fruition. The diffuse group identity of large groups means that it is difficult for contributors to identify free-rider and, therefore, diffuse interests often struggle to mobilise at all and remain latent. In contrast, small concentrated groups find it easier to mobilise their members because individual participation is directly linked to potential benefits received. Moreover, smaller groups allow for identification and sanctioning of free-riders (Olson, 1965; Schattschneider, 1960; Shepsle, 2010).

Secondly, business groups possess technological knowledge (such as expert knowledge about markets) and superior resources, which diffuse interests often find difficult to match (Kerwin, 2003: 183). Business groups are in a dominant position when it comes to defining what is seen as technologically feasible, and in shaping the perception of economic costs of process and product change. Legislation is often highly complex and decision-makers rely on the expertise of business groups to understand the technical nature of policy problems, as well as the likely consequences and effects of the different policy options being discussed (Betsill & Corell, 2001, p. 74). As a result, business groups supply policy-relevant information that decision-makers need in order to make effective policy decisions. The informational superiority of business groups is a key source of political influence (Broscheid & Coen, 2007, p.348). The asymmetry in resources between business groups and diffuse interests

increases the risk of regulatory capture in which the policy outcomes are biased towards the preferences of the regulated industry (Bernstein, 1955; Stigler, 1971). At worst, business dominance in policymaking may lead to situations where ‘regulation is acquired by the industry and is designed and operated primarily for its benefit’ (Stigler, 1971, p.3).

Lastly, business groups hold a position of structural power because their investment decisions play a vital role for the performance of the economy. This view was put forward in particular by Charles Lindblom in *Politics and Markets* (1977), in which he argues that business interests occupy a privileged position in capitalist democracies because their investment decisions are of key importance to public welfare. Policymakers are frequently pressured to defer to the preferences of large corporations because of their threat of exit and threat to withhold additional investment unless their demands are met. However, Lindblom’s structural power concept did not go without criticism. Quite to the contrary, his notion of structural power held by large corporations set in motion an avalanche of criticism from the academic community, most notably from David Vogel (1987) and most recently from Hacker and Pierson (2010) and Culpepper (2011). Lindblom’s critics took issue with him for only addressing why business wins, but failing to explain why, if business is so influential, it still loses so many legislative battles (Wilson 1980; Vogel, 1987). While scholars disagree on the degree to which business dominates politics, they do agree that business carries significant weight in decision-making owing to its comparative advantage regarding mobilisation, expertise, financial resources, and economic clout (Yackee & Yackee, 2006).

#### *1.1.1 The EU as an élite pluralist system*

Similar to business dominance accounts, EU scholars have characterised the EU’s interest group system as élite pluralist, in which an elite trust-based relationship between insider groups and EU officials has developed (Coen, 2009, p. 152). The élite pluralist concept is heavily weighted towards the

European Commission, where business groups (large firms and European business federations) are found to have invariably better access to the Commission's consultative committees than diffuse interests and national associations (see for instance Brosheid & Coen, 2007; Coen, 1997a, 1997b, 1998; Eising, 2007). Insider status is granted to business groups who have developed pan-European credentials and established a political reputation as a provider of credible information (Coen, 1997; Eising, 2007). Elite pluralism entails access to European Commission forums and committees being limited to a few interest groups, 'for whom membership is competitive and strategically advisable, but not compulsory or enforceable' (Coen, 1997b, p. 20). The emergence of elite pluralism needs to be seen in tandem with the mushrooming of interest groups in Brussels since the late 1990s and the resultant lobbying overload. This has allowed the European Commission to be more selective in according access to interest groups (Coen, 2009, pp. 151-2).

Although most EU scholars use elite pluralism as a label to refer to the insider status of large firms and European business federations in the European Commission's forums and committees, the label can also be applied to diffuse interests. The European Commission actively funds diffuse interests and sets up forums that provide diffuse interests with access to the EU policy process. In order to qualify for funding, applicant organisations are required to be operating at a European level either alone or in the form of several coordinated associations with a membership base including, as a minimum, three EU member states, and activities should mainly be at a European, rather than at an international, level (European Commission, 2011a). These requirements have in effect created insider and outsider groups both among and between diffuse interests and businesses (Hix & Høyland, 2011 p. 173). Among diffuse interests, only groups fulfilling the European Commission's criteria are given funding and access to the Commission's consultative committees, which puts national diffuse interests at a disadvantage, particularly those who are not members of European non-governmental organisations (NGOs). Likewise, business groups with a pan-European perspective are favoured over businesses without a European outlook. Between business and diffuse interests, business groups with European

credentials generally enjoy better access to the European Commission than European NGOs.

The emergence of *élite* pluralism in the EU sits well with the interest group literature's general assumption of business dominance in policymaking. However, the assumption of business dominance needs to be qualified in three regards. Firstly, not all business groups enjoy privileged access to the European Commission. Only business groups who fit the Commission's access criteria (the development of a positive reputation and pan-European credentials) are perceived as important policy players (Coen, 2009, p.151). Secondly, the EP is often portrayed 'as a champion of the environment, consumers, women, and other diffuse but electorally popular causes' (Pollack, 1997, p. 581), and 'an ally for groups having no other access to the decision-making process of the EU' (Kohler-Koch, 1998, p. 6). The reputation of representing diffuse interest goes against the common assumption in the interest group literature of business dominance. Lastly, while the EU's interest intermediation system might be characterised overall as *élite* pluralist, variation is likely to exist at the sub-system level (Coen & Katsaitis, 2013). Lowi (1964; 1972) and Wilson (1974, 1995) in particular have argued that not all types of regulations are prone to capture as different types of policies produce different patterns of politics. 'Each [policy] arena tends to develop its own characteristic political structure, political process, elites, and group relations' (Lowi, 1964, pp.689-90). The likelihood that regulation reflects business dominance - and at worst regulatory capture - is expected to vary across policy domains.

The preponderance of business interests in the policy process is assumed to be most prevalent when the benefits arising from legislation are concentrated on a small group and when the costs are widely dispersed, leading to what James Q. Wilson calls 'client politics' (Wilson, 1974, 1995). Middle-range theories (such as Lowi's and Wilson's policy typologies) emphasise that there may not be only one policymaking process at play, but instead 'numerous relatively narrow and self-contained policymaking systems with distinct actors, issues, and processes' (Freeman, 1985, p. 483). Policies are affected by the kind of interest group coalitions that oppose and support a proposal and different

coalitions may form on different issues. As Wilson maintains, 'on any given issue, one or another interest group might be powerful, but no group is powerful across all issues' (Wilson et al., 2012, p.333). Drawing on Wilson's politics of policy typology, the following section highlights the importance of studying interest group influence from a subsystem politics perspective.

### *1.1.2 Policy determines politics*

The question of 'who gets what and how' is decisive in shaping the reactions of interest groups to a given policy. As Lowi (1964) and Wilson (1974) argue, the type of policy shapes the policy arena and the actors who mobilise to mould legislation. Political action is easier to stimulate when the benefits to be maintained or the costs to be avoided are concentrated on a particular group. It is generally maintained that, 'since people are more sensitive to losses than gains, losers are more likely to mobilize politically than winners' (Daugbjerg & Svendsen, 2001, p. 134). In the EU, the type of policy also influences the choice of decision-making rules and the relative power between the EU institutions (Wallace, Pollack, & Young, 2010, p. 50).

One attempt to develop a causal link between the nature of public policy and the particular patterns of political conflict associated with them is that of Lowi (1964).<sup>3</sup> His argument is that different types of policies impose different kinds of constraint on decision-makers and mobilise different sorts of interest groups, which then results in different patterns of politics (Lowi, 1964, p. 482). Lowi distinguished between three main types of policies (distributive, regulatory, and redistributive) each of which is characterised by different types of politics. In later publications, Lowi added 'constituent policy' to his typology, referring to procedural decision-making rules and the constitutional legal order of a political system, such as reappointments or setting up a new agency (Lowi 1972). In *distributive policies* (such as the common agricultural policy), the

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<sup>3</sup> The idea that the attributes of policies shape the nature of (government) decision-making is not entirely new as Schattschneider first suggested this in *Politics, Pressure with Tariff* (Schattschneider, 1935).

benefits of legislation are concentrated on a specific group while the costs are widely spread. In such a scenario, diffuse interests tend to succumb to interests facing the prospect of gaining concentrated benefits. Distributive politics is associated with iron triangles, clientalism, pork-barrel spending, and logrolling between politicians representing different constituencies. Distributive policies are usually discussed and adopted with little political conflict because beneficiaries face limited (if any) organised opponents seeking to stop spending. In his book *The End of Liberalism* (1979), Lowi finds distributive politics particularly problematic in a democracy because decision-makers are more interested in pandering to specific interests than in acting in the public interest. Lowi describes critically American politics as 'interest group liberalism' – a system constructed to distribute benefits to many specific groups, while disregarding the trade-offs inherent in the distribution of benefits (Birkland, 2011, p. 212).

*Regulatory policies* are usually intended to govern the conduct of business, and these policies bring winners and losers into direct confrontation. Ripley and Franklin updated Lowi's typology in 1991 by dividing regulatory policies into two categories: protective regulatory and competitive regulatory policies. Protective regulatory policies refer to policies that aim to protect the public from negative side-effects of private activity, such as air pollution, unsafe consumer products, and contaminated food. Competitive regulatory policies refer to policies that restrict the provision of goods and services to one or a few providers, such as television franchising and licensing. Lastly, *redistributive policies* (such as progressive taxation, labour market policies, and civil rights for racial and social minorities) involve the transfer of resources from one group to another and are often highly controversial. Redistributive policies are often difficult to pass because of significant polarisation between winners and losers as a result of redistributive policies' unequal allocation of costs and benefits.

The value of Lowi's typology is that it enables us to better foresee the sorts of policy conflict that is likely to precede a policy's enactment. The prominence of Lowi's typology is to be understood in light of the time in which it was formulated. At this time political science was highly influenced by Easton's

(1965) model of a political system, in which the policy-making process was black-boxed between input (demands and support from citizens) and output (adopted policies). Policy processes were largely unanalysed; Lowi's focus on how policies, not institutions, shape politics was therefore a significant departure from political science thinking at the time.

Despite its prominence, Lowi's policy categorisation has been widely criticised for the difficulty of assigning policies to just one category. Most policy domains have both redistributive and regulatory features (Freeman, 1985). For example, regulation of consumer product safety that redistributes the responsibility for risk from the consumer to the manufacturer can be regarded as both a regulatory and a redistributive policy depending on how one looks at it (Birkland, 2011, p. 215). As a response, Wilson (1974) has developed a more nuanced typology that rejects ambiguous policy types based on the distribution of anticipated costs and benefits. As Wilson argues 'the costs and benefits may be monetary and nonmonetary, and the value assigned to them, as well as the beliefs about the likelihood of their materialisation can change' (1980, p.366). By focusing on both monetary and nonmonetary costs and benefits, Wilson expands Olson's conception of selective incentives to not only include material payoffs, but also non-material payoffs, such as respect and honour, the personal feeling of doing 'the right thing', and the communal gratification of doing things together.

In spite of Wilson's critique of Lowi's typology, he builds on Lowi's basic idea that the type of policy studied tells us something important about the politics associated with it. There are some similarities between Wilson's and Lowi's typologies. For example, Wilson's client politics is closely associated with Lowi's distributive policy type, in which a well-delineated segment of society may gain benefits at the expense of general tax-payers. The novelty of Wilson's typology is that he classifies policies in terms of the distribution of their costs and benefits. Wilson argues that legislators and officials can be confronted with four kinds of political environments, each of which results in different politicking through which policy outcomes are agreed (Permanand, 2006, p.

84). As illustrated in table 1, Wilson calls these four environments: client, majoritarian, interest group, and entrepreneurial politics.

Table 1.1: Costs, Benefits, and Group Mobilisation

<b>Costs and Benefits</b>	<b>Mobilization</b>
Concentrated benefits/ diffuse costs	<i>Client politics</i> : close clientele relations between decision-makers, regulators, and the regulated industry are likely to occur. Interest groups with a concentrated stake in an issue are expected to prevail over diffuse interests.
Diffuse benefits/ diffuse costs	<i>Majoritarian politics</i> : interest group influence is expected to be minor.
Concentrated benefits/ concentrated costs	<i>Interest group conflict</i> : at least two opposing interests are expected to clash, limiting the influence of any individual groups.
Diffuse benefits/ concentrated costs	<i>Entrepreneurial politics</i> : mobilisation of cost bearers and loose temporary coalition of advocates for benefits, likelihood of legislature activism and scope for policy entrepreneurship.

Source: Derived from Wilson (1974, pp. 332-337).

*Client politics* engender concentrated benefits for a small well-defined group of society (for example an industry), while the costs are borne by a large number of people (for example tax-payers). Because the recipients' benefits are large, they have great incentives to organise and press the enactment of a proposal. Subsidies paid to farmers, tax shelters, and regulations restricting the import of foreign goods are classic examples of client politics. The EU's expenditure policies, such as the Common Agriculture Policy (CAP), Cohesion Policy spending, and spending on investment in scientific research and development, are clear examples of what Wilson calls client politics (equivalent to Lowi's distributive policy category). Beneficiaries from the EU expenditure - such as farmers, depressed regions, and researchers - constitute well-delineated constituencies reaping significant economic benefits from these policies. On the other hand, taxpayers who indirectly pay into the EU budget represent a diffuse



group. Client politics are often associated with quiet lobbying, quick passage of regulation with limited (if any) public discussion, and close clientele relations between regulators and the regulated industry (Wilson, 1980, p. 369). Client politics might look like a powerful force, but occasionally it does get changed when people find that a certain product is unwanted or deem beneficiaries of a certain policy illegitimate (Wilson et al., 2012, pp. 360-1). Recent examples include the phasing out of subsidies to tobacco farms in the US and the EU. The support for tobacco farm subsidies began to crumble with the increased awareness of the health risks associated with smoking. This made it easier for health groups to organise and get support for their lobbying cause because people were no longer insouciant about subsidies to tobacco farmers (Wilson et al., 2012, p. 330). However, in the absence of public interests or 'watch-dog' organisations, client politics produce politics that are most prone to capture (Stigler, 1971; Wilson, 1980).

In *majoritarian politics*, both costs and benefits of a regulation are dispersed; the chances of reaching a policy outcome are slim because no-one has the incentive to push for its realisation. A policy resolution will only take place when there is sufficient political and popular support. Lobbying is expected to be marginal because no small definable segment of society (such as a specific industry, locality, and occupation) reaps the benefits or shoulders the costs. Wilson mentions the example of the US congressional discussions on whether or not to maintain a large standing army just before and after the Second World War (Wilson, 1980, p. 367). When on the brink of a war, interest groups are not crucial for support; what matters are public sentiments and political ideology (Wilson, 2012, p. 329). Other examples of majoritarian politics include social security, Medicare, abortion issues, and civil rights acts.

*Interest group politics* occur when both costs and benefits are narrowly concentrated. Interest group conflict becomes prominent because the benefits of regulation flow to a relatively small number of interests and are paid for by a small segment of society. In interest group politics at least two rival groups are expected to clash, limiting the influence of individual groups. Both the likely beneficiaries and the likely cost-payers have strong incentives to press their

demands due to the significant costs or benefits at stake. Not only are rival groups' lobbying efforts likely to counter each other, but politicians will also be inclined to seek compromises between opposing groups. Typical examples of interest group politics include the conflict between management and labour, wholesalers and retailers, and companies providing similar services (such as the fight between cable and phone companies to connect home computers to the internet).

*Entrepreneurial politics* pit the general public against special interests by distributing benefits widely, while more narrowly concentrating the costs, such as health and environmental policies. In this situation, opponents have strong incentives to block the regulation, while beneficiaries have few incentives to press for its enactments. As Wallace summarises, 'policy will be blocked by the vested interests that benefit from status quo, unless a policy entrepreneur can mobilise latent public support for a policy change' (2010, p. 51). Wilson argues that policy entrepreneurs 'can mobilize public sentiment (by revealing a scandal or capitalizing on a crisis), put the opponents of the plan publicly on the defensive (by accusing them of deforming babies or killing motorists), and associate the legislation with widely shared values (clean air, pure water, health, and safety)' (1980, p. 370). In such cases, the policy entrepreneur acts as a vicarious conduit for immobilised diffuse interests. Sometimes the advent of a focusing event (i.e. a sudden event that sparks intense media and public attention in a certain issue) can create a broad upsurge in the public's interest in a previously ignored issue and make it politically salient - a phenomenon referred to as 'policy intrusion' (Jones & Baumgartner, 2005). Focusing events are likely to open a policy window for policy entrepreneurs and mobilise sufficient public and political support for a policy change (Kingdon, 1984; Baumgartner & Jones, 1993).

The role of focusing events in fostering policy change is also considered by more recent interest group scholars, such as Culpepper (2008) and Michalowitz (2007). They find that public support for a policy change that goes against the regulated industry is easier to mobilise when issues are highly salient. If a policy issue is highly salient, many interest groups will try to shift a policy outcome

towards their ideal point and politicians may be tempted to be seduced by the media. For instance, a scandal that will evoke antibusiness sentiments (such as the British Petroleum oil spill in the Gulf of Mexican) or increased media attention of an issue may be enough to set the cat among the pigeons and turn an issue into a moralistic crusade. In this situation, politicians may seek to build a reputation for being a tribune for the people and try to ward off the pressures of the cost-bearing industry. However, as argued by both Bernstein (1955) and Wilson (1995) such situations are often short-lived as decision-makers may find themselves facing an environment where much of the technical information they need is in the hands of an interest opposed to its goals. The influence of diffuse interests is, therefore, expected to be momentary, facilitated by the media, and involving entrepreneurs (politicians or bureaucrats), who only temporarily identify with and surf on the public wave. But when the wave hits the coast, only ripples remain in the water. Public interest fades and special interests recapture politics as politicians are tempted to dance to the tune of the regulated industry in the long run (Kingdon, 1984). Thus, business influence is likely to vary according to the levels of salience and technicality of an issue. Similarly, Culpepper (2008) argues that:

Certain policy areas are of great interests to firms and their managers, but of relatively less interest to the electorate at large. Such issues are of low political salience – most people do not care about them, most of the time [...] High salience issues, such as redistribution through the tax system, *do* matter to most people most of the time; elections are fought on such high salience issues (Culpepper, 2008, p. 7).

The quote above highlights an important premise in Wilson's typology, namely that interests carrying concentrated costs or reaping concentrated benefits are particularly likely to 'win' on low salience and highly technical issues. When issues have little political salience, decision-makers have 'little to gain and much to lose by opposing business interest' (Culpepper, 2008, p. 7). Business groups with concentrated interests in an issue are particularly likely to be influential on low salience issues, or what Culpepper calls 'quiet politics'. This is not to say,

however, that business groups are never influential on highly salient issues. Just as national armies use different tactics when engaged in inter-state warfare compared with guerrilla warfare, business groups are expected to use different strategies when faced with low versus high salience issues. Lobbying battles fought on highly salient issues are difficult to win without forging broader alliances with other interest groups and framing issues in ways that appeal to the broader public. Failure to do so is one of the reasons why business groups are less influential under conditions of high salience compared with low salience conflicts (Smith, 2000). When faced with battles that business groups have little chance of winning, they may be better off conserving their resources, or shifting venue from formal (politically elected) to informal institutions (such as bureaucracies), where attention and lobbying may be less intense. For instance, Culpepper argues that business groups' ability to exert disproportionate influence increases if they can 'ride out the storm of public attention and shift to a technical battle over bureaucratic regulations that is uninteresting to newspaper readers' (2011, p. 190). Likewise, interest groups will seek to increase the attention given to an issue if they think the populace will be on their side (Kollman, 1998).

Crises or increased salience do not, however, always precede policy acts that confer significant costs on a specific industry. Wilson (1980) gives the examples of the US's environmental protection laws and occupational safety and health acts, in which no major crisis or increased public attention to these issues precipitated the adoption of these acts. Instead, these policies were driven forward through spill-over effects of existing regulatory policies, that is to say, one regulatory policy prepared the way for the passage of another policy (Wilson, 1980). This is particularly likely in the EU, where the process of positive spill-over effects, which are inherent in the single market, mean that integration in one area (such as Schengen with its abolition of internal market) creates strong incentives for integration in related areas (such as Frontex, a common external border control). Furthermore, entrepreneurial politics often depend heavily on the position of third parties given that the reaction of the regulated industry will most certainly be unfavourable to the entrepreneur's

view. Third actors include various political elites – influential journalists and academics, civil servants, and political protesters – unaffected by the policy that the entrepreneur is advocating (Wilson, 1980, p. 371).

To sum up in Wilson's own words, 'the politics of regulation follows different patterns, mobilizes different actors, and has different consequences depending, among other things, on the perceived distribution of costs and benefits of the proposed policy' (Wilson, 1980, pp. 371-2). The value of Wilson's typology is not in the labels of the different categories. Instead, Wilson argues that we should see the distribution of costs and benefits as tendencies or as ends of two continua rather than two dichotomies, resulting in a four-fold typology since there might be in-between cases (Birkland, 2011, p. 217). Although not all policies fit perfectly into well-delineated categories, Wilson's framework provides a helpful way of thinking about the underlying politics of policies with different cost-benefit allocations.

It is important to note that the distribution of costs and benefits 'may be as much a social construction as the result of a real calculation of costs and benefits' (Birkland, 2011, p. 218). Benefits or costs do not have to be real to stimulate political action; the mere perception of costs is enough to engender lobbying activity. If the distribution of costs and benefits are so prone to perception, then what is the value of dividing policies into different categories? The answer can be found in an article by Lowi in which he argues that 'it is not the actual outcomes but the expectations as to what the outcomes can be that shape the issues and determine politics' (1964, p. 707). Thus, the distribution of costs and benefits arising from policies may only gain meaning when groups give them meanings and act upon their perceptions (Birkland, 2011, p. 218). Perceptions of costs and benefits arising from policies are of key relevance for the policy process and outcomes. Strategic policy actors - interest groups, politicians, bureaucrats, etc. - may increase their chances of shaping the policy process and outcome directly by influencing the way in which policies are framed; a point also emphasised by Baumgartner (see for instance, Baumgartner & Mahoney, 2008; Rose & Baumgartner, 2013).

Furthermore, lobbying is not necessarily to be seen as an individual

endeavour, but rather as a collective enterprise including multiple interest groups lobbying at the same time to push a policy outcome towards their preferred position. Interest groups are often part of a lobbying camp defined as ‘a set of actors who share the same policy goal’ (Baumgartner et al. 2009b, p. 6). As argued by Klüver, ‘lobbying as a collective enterprise does not require formal co-ordination and co-operation between different interest group’ (2012a, p. 7). As long as interest groups pursue the same objective, they can be seen as a lobbying team.

The analytical value of Wilson’s politics of policy typology is two-fold. Firstly, it draws attention to the way in which the nature of political conflicts varies considerably across policy domains. No interest group is expected to dominate across all policy areas; the incentives to mobilise and the likelihood of winning on particular issues depend on how the costs and benefits of legislation are distributed. Secondly, Wilson’s typology incorporates (and in some circumstances, develops further)<sup>4</sup> many of the factors mentioned in the interest group literature as being important for lobbying success, such as the role of collective action (Olson, 1965), framing/issue relabeling (Baumgartner et. al 2009), and issue salience (Downs, 1972; Culpepper, 2008, 2011). What is needed now is a discussion of how well Wilson’s typology, developed in an American congressional context, travels across the pond to the EP. This is important because policies cannot be properly understood without also attending to the institutional arena in which they are played out and the actor constellation to which they are related. The following section discusses Wilson’s typology in light of the distinctiveness of EU policies, the concepts of resource-dependency and the exchange models used by EU interest group scholars, and the institutional dimension of EP legislative politics.

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<sup>4</sup> One example is Wilson’s expansion of Olson’s notion of selective incentives to cover not only monetary factors but also nonmonetary factors.

## **1.2 Wilson's policy of politics framework applied to the EP**

Lobbying does not take place in an institutional vacuum since the EP as a polity may privilege some groups over others, regardless of the policy issue at hand. Given that Wilson's framework is formulated in an American context, to what extent might it tell us something about interest group influence in the EU? Even though the EP's functions are not (yet) as developed as the US Congress, the EP is more similar to the US Congress than to any European national parliaments. The US House of Representatives bears many similarities with the EP both in terms of its composition, functions, and strong committee system. While the EP has many similarities with the House of Representatives in the US – from which Wilson's typology derives – key differences persist, most notably that:

- The EU is a functionally restricted polity mainly engaged in economic integration with limited responsibility for taxation and social distribution, limiting the types of policy conflicts to mainly regulatory and distributive policies (Pollack, 1994; Reh, 2012). Furthermore, the EP cannot formally initiate legislation.
- The Olsonian collective action dilemma is less severe in the EU because the European Commission has deliberately set up and provided funding for a number of societal and environmental groups to ensure balanced interest group representation (Greenwood, 2007).
- The EP lacks a clear electoral connection and MEPs are not dependent of corporate funding for their (re-)election. The main currency of lobbying in the EU is information rather than campaign contribution or political patronage (Broscheid & Coen, 2002: 170).

The above three examples of differences between the US and the EU highlight the importance of viewing Wilson's typology in light of the nature of EU policies, the nature of EU interest groups and their capacity to provide information, and

the EP as a distinct lobbying venue. These features will be considered in what follows.

### *1.2.1 The nature of EU policies*

The EU is a functionally restricted polity mainly engaged in economic integration with only limited responsibility for taxation and social redistribution. The EU is often referred to as a ‘regulatory state’ because EU policy-making mainly proceeds through the means of regulation (Majone, 1994). The idea of the regulatory state implies a focus on liberalisation and the privatisation of public services (negative integration), and the up-scaling of previously held national competences to the EU-level (positive integration) (Lodge, 2008). The EU regulatory regime has both deregulatory and re-regulatory elements. EU deregulation consists of four components: the single market programme, the common competition policy, services integration, and the open method of coordination. It is based on the principle of mutual recognition (in line with the European Court of Justice’s 1979 *Cassis de Dijon* ruling) and the removal of barriers to market access. National governments are prohibited from using trade barriers, state aid, or special operating licences to protect their national industries from competition from industries of other EU countries (Hix & Høyland, 2011, p. 216). The deregulation of markets has been complemented with the re-regulation of product and process standards at the EU level, aimed at replacing national rules with common EU rules and alleviating the negative side-effects arising from an imperfect market (such as pollution and social dumping). Product standards include technical requirements for product design or performance prescriptions for manufactured goods. Process standards concern the production process in which goods and services are made. The EU has been more successful at adopting legislation on products standards than process standards. The main reason for this is that countries with higher process standards (such as Scandinavian countries) prefer to retain their high social standards rather than settling on common EU minimum standards. Contrary to this, poorer EU countries (such as in Southern



and Eastern Europe) with lower process standards are afraid that common EU social standards would make them worse off competitively. Harmonised product standards, on the other hand, benefit all member states as transnational firms have much to gain from access to a larger market (Hix & Høyland, 2011, pp. 208-217).

Initially, EU regulatory policies were intended to complement the redistributive policies of its member states. Conflicts concerning redistribution were originally confined to the nation state, whereas the EU was seen as a polity engaged with efficiency-enhancing market regulation. Although the EU's efficiency-enhancing regulations may have indirect re-distributive knock-on effects at the national level, EU regulation was justified with reference to positive-sum games and the correction of market failures (Majone, 1994; Scharpf, 2002). Today, the nature of EU policies has changed and the EU's regulatory space has expanded significantly. EU regulation is no longer only about regulating the conduct of business in the market, but also about welfare provisions and, since the creation of the European Monetary Union about creating rules that regulate member states' budgetary policies (Schelkle, 2008). The coordination of member states' fiscal and tax policies questions the continued relevance of Majone's notion of the EU as purely a regulatory state. The EU regulatory space has expanded from purely market-enhancing policies aimed at efficiency to resource allocation. The EU's blend of de- and re-regulation has not resulted in pareto-efficient outcomes as assumed by Majone (1994), as EU policies do have distributive effects. The devil of EU legislation is in the detail and even small technical changes can have significant distributional consequences. EU legislation is about competing values and, albeit small, its policies do lead to what Easton (1965) calls a (re)allocation of values that benefit some interests over others. However, while EU legislation might 'give some persons access to values and deny them to others' (Easton, 1965, p. 50), it rarely results in big winners and losers.

The EU's multiple checks-and-balances and the need for compromises between a large number of interests means that EU policy outcomes are seldom a zero-sum game. In terms of lobbying, researchers agree that the consensus

culture of EU decision making suggests that in 'Brussels, you must speak softly, softly' (Gardner, 1991, p. 63), and not take up the defensive 'gangster style' of American lobbyists (Woll, 2012, p. 204). Lobbying is not so much about defeating proposals, but about modifying what has been proposed (Thomas & Hrebenar, 2009). Unlike the US, most EU legislative proposals are adopted, which means that interest groups' chances of completely killing a proposal are slim. On an annual basis, only about 20 per cent of the European Commission's proposals are withdrawn or rejected (Woll, 2012, p. 206). Contrast this with the US Congress, where a large number of legislative proposals are never adopted. Mahoney (2007) finds that only 306 legislative proposals out of a total of 2764 suggested proposals were adopted in the US in 2004; a passage rate of 11 per cent. The large number of defeated proposals in the US Congress is partly due to its filibuster rule, which allows congressmen to delay proceedings by continuing debate on an issue. In the US Congress, a filibuster can be overcome if a bill gets 60 votes in favour out of 100 to close a debate and move to voting on a bill. The EP does not have any formal filibustering rules, although the passage of a proposal can be delayed if an impact assessment is requested or a proposal is referred back to a committee for renewed scrutiny. Referral back to committee may be requested by a political group or at least 40 MEPs before the start of the plenary debate, before or during a vote (Rules of Procedure of the European Parliament, 2012, rule 175). A request to move a proposal back to committee needs a simple majority at plenary to be met. Furthermore, EU legislation is characterised by ex-post evaluation with the aim of continuously bringing existing legislation up to date by subjecting existing legislation to reviews every three to five years. This implies that:

The bulk of lobbying is more akin to long drawn-out trench warfare than spectacular Pearl Harbour type. The contestants in the EU policy process are often like the troops in the First World War, they are fighting over a narrow strip of territory which has not great interest to mankind as a whole but about which they care very intensely (Richardson & Coen, 2009, p. 341).

The constant process of fine-tuning past EU legislation means that new lobbying winners and losers are constantly made. Interest groups cannot, however, rest on their laurels as wins and losses are only temporary until the next revision is due. The nature of EU legislation as often being a revision of existing legislation has two implications for lobbying. Firstly, interest groups are expected only to be able to change legislation on the margins rather than in the core in cases where a European Commission proposal is a revision of an existing piece of legislation. Contrary to this, completely new proposals leave broader scope for interest groups to influence the content of the legislation. Secondly, the constant revisions and updating of EU legislation implies that interest groups are engaged in reiterated games (as opposed to one-shot games), which encourage them to establish a positive and reliable reputation for securing long term gains. Interest groups have little incentive to ‘babble’ (situations where lobbyists present a biased view on issues), and a high incentive to establish a positive and credible reputation with EU decision-makers (Coen & Broscheid, 2007, p. 350).

### *1.2.2 The nature of EU interest groups and their capacity to provide information*

In numerical terms, business associations and companies are more numerous in Brussels compared with diffuse interests. Despite the numerical strength of businesses in comparison with diffuse interests, member states’ diverse domestic regulatory systems mean that business groups often find themselves battling each other. Producers from different member states often compete with each other in the EU policy process due to different domestic regulatory rules and competitive advantages (Falkner, 2012). As seen in the previous section, the likelihood of conflict within the business sector and between member states is higher in areas that regulate manufacturing processes than product standards (Coen, 2009, p. 163). This highlights the importance of distinguishing between different types of regulations – product versus process standards – when assessing under what conditions business groups are particularly likely to exert influence over policy outcomes.

Business groups' ability to influence EU policy outcomes is expected to be constrained by internal business conflict and cumbersome internal decision-making within European business associations. Contrast this to diffuse interests, who often stand more united because they are fighting for the same cause and share the same conviction. Diffuse interests' ideological cohesiveness enables them to build large European networks representing a European view. In the environmental field, this is witnessed by the Green 10. The Green 10 is a loose, but coordinated, network of ten of the largest European green organisations and networks active at the EU level, which coordinate joint responses and recommendations to EU decision-makers (Green 10, 2011). Usually, the relationship among the Green 10 is more harmonious than European business federations as they have the advantage of being able to construct and maintain more easily broad cross-national coalitions.

Despite high ideological cohesiveness among diffuse interests and the EU's funding of diffuse interests, they may still be at a disadvantage compared with business interests since diffuse interests often work on the ideas level and are less engaged in the specific technical details of policies. Some EU legislative proposals may be of such a technical nature that only very few interest groups are able to provide decision-makers with the detailed information they need regarding the state of the market and the likely effectiveness of a proposal. The level of technicality both influences decision-makers' dependency on outside expert information, as well as the number of interest groups holding this information. Producers, directly affected by highly technical internal market legislation, often possess greater technical expertise compared with diffuse interests. Different types of interest groups are expected, therefore, to supply different types of information and use different types of tactics to convey their lobbying message. The existing interest group literature conceives of lobbying as an information exchange, in which access to decision-makers is a result of the informational needs of decision-makers and interest groups' ability to meet these needs (Austen-Smith, 1993; Bouwen, 2002; Hall & Deardoff, 2006). In the words of Austen-Smith (1993, pp. 799-800):

Decision-makers are frequently choosing policies without complete information on their consequences, in which case, information becomes valuable, and those who possess it are accordingly in a position to influence policy.

The access of interest groups to decision-makers can be seen as a demand and supply relationship: decision-makers demand information from interest groups and interest groups supply highly specialised outside expertise. On the supply-side of lobbying, two dimensions can be distinguished: the *type of information* communicated to decision-makers, and the *tactics used* to get their message across (Chalmers, 2013, p. 40). Information type can be broadly divided into technical information/expert knowledge and politically salient information. The former is generally seen to include highly technical and scientifically-based information, whereas the latter refers to value-laden claims and information about public support (Chalmers, 2013; Mahoney, 2008). Tactics can be divided into outside and inside strategies, or what some researchers call voice and access strategies (see for instance Beyers, 2004). Outside tactics centre on using the media, arranging conferences, and mobilising citizen support through petitions or demonstrations. Inside tactics, on the other hand, involve old-fashioned shoe-leather strategies like letter and email-contact supported by direct contact over the phone or face-to-face meetings (Chalmers, 2013, p. 40-43). Outside tactics are often regarded as inferior to inside tactics and less efficient (see for instance Eising, 2007). However, this view might be as much a reflection of how inside tactics are defined rather than an objective view of how things really are. Outside tactics are sometimes defined narrowly as protest politics involving disruptive tactics, although only very few groups use this type of protest politics. Other outside tactics (such as using the media) are used more by a wide range of interest groups (Beyers, 2004; Bindekrantz, 2005). Perhaps, as Baumgartner and Leech observe, 'the most effective groups may not be those that are the best at a given strategy but rather those that have the greatest repertory of strategies available to them (1998, p. 148). More importantly, not all issues lend themselves to outside lobbying tactics because some issues do not attract great

attention. It is difficult to impassion people about a new tax reform that is only going to affect very few companies (Wilson et al. 2012, p. 166).

Diffuse interests are generally seen to possess political information, but little (if any) technical and expert information (Eising, 2007; Michalowitz, 2004). Dür and de Bièvre (2007) paint a bleak picture when it comes to assessing diffuse interests' influence potential in Brussels. They consider diffuse interests to be at an informational disadvantage compared with businesses. Due to diffuse interests' purported lack of technical information, they are 'compelled to constantly appeal to general principles like equity, social justice, and environmental protection', which are of little use for EU decision-makers (Dür & de Bièvre, 2007, p.82). Diffuse interests are often assumed to be limited to the use of outside tactics, lurking around in the edges of the lobbying pitch (Gerber, 1999). The strength of business lies in its expertise and privileged access to decision-makers. Business groups are typically experts in the areas in which they operate and decision-makers rely heavily on the information business can bring to the table. Therefore, business groups do not necessarily need to resort to outside lobbying tactics in order to catch the attention of decision-makers (Michalowitz, 2004).

It is, however, important to distinguish between different organisational forms of business groups. Business lobbying in Brussels takes various organisational forms, ranging from direct firm representation through to national business associations and to sectoral and general European business federations. European industry federations are often described as inherently weak due to their inability to reconcile divergent national interests and to arrive at anything but the lowest common denominator (Grant, 1993). Consequently, many European federations restructured their membership basis in the 1990s to allow for both membership of national associations and firms. The hope was to become more responsive to EU decision-makers' informational needs by providing more technically sound information, which would represent the views of firms and national associations. The mixed membership structure of European business federations enabled firms to develop their pan-European

credentials and gain better access to the European Commission's committees and forums (Cohen 1999).

Direct membership of European business federations allows firms to monitor a greater number of issues, while at the same time focusing their lobbying efforts on issues most important to them. This is because they can leave less important issues to their European federation. However, as suggested by some scholars (such as Coen, 2011, pp. 161-3), the rationale behind companies' decision to join European federations may be seen more as a way to avoid costs from non-membership rather than reaping significant benefits from membership. Key differences persist regarding the type of information provided by European trade associations and firms, with the latter holding more technical information than the former. Scholars have sometimes referred to trade association officials as "'industrial civil servants" who lack the expertise to inform policy formulation' (Greenwood & Webster 2000, p. 5). European trade associations' strength is that they have their finger on the pulse when it comes to identifying and communicating the majority view held by their members, i.e. the European encompassing interest (Bouwen, 2002, 2004).

To sum up, the ability of business groups to dominate the policy process is expected to differ across policy domains according to the distribution of costs and benefits arising from legislation as well as the type of information and legitimacy required by decision-makers. Issues requiring high levels of technical and scientific expertise generally require high levels of output legitimacy, whereas politically salient issues tend to require high levels of input legitimacy. For instance, I expect less business influence on policies that define process standards, which is often the case in policy areas characterised by what Wilson calls 'interest group politics'. This type of policy domain is likely to draw in a wider selection of societal actors and attract more media attention. Different types of interest groups are expected to have different levels of access to MEPs depending on the policy issue at hand, as well as the informational needs of decision-makers. The next subsection focuses on the type of information MEPs need in order to fulfil their legislative and representative roles.

### *1.2.3 The EP as a unique lobbying venue*

Lobbying in Brussels is often seen to be less aggressive and more consensus seeking than the case of Washington, primarily because EU officials and MEPs are not dependent on corporate funding for appointment and election. Some lobbyists have characterised the EU lobbying scene as ‘a harmonious village where everyone looks after one another’ (ALTER-EU, 2010, p. 30). Equating Brussels to a cosy and harmonious setting conceals the reality of EU public policy making. EU policy decisions have an important impact on the lives of its 500 million citizens, and businesses mobilise significant resources to ensure a favourable regulatory environment for their products. Lobbying is an integral part of the EU's political system and a necessity for the functioning of its institutions. At their best, interest groups provide decision-makers with well-researched information and technical guidance on proposed legislation, ensuring better informed and more legitimate policy outcomes. While theoretically consistent with the ideals of democracy, the influence of interest groups can lead, at worst, to political corruption and inequality of representation. This was highlighted recently in the EP in March 2011 when four MEPs were accused of agreeing to accept money from Sunday Times journalists posing as lobbyists, in return for watering down banking reform legislation (Insight reports, 2011, p. 20). Presenting themselves as banking lobbyists, the journalists contacted some 60 MEPs and attempted to bribe them with offers of cash in return for tabling amendments to draft EU legislation. While lobbying scandals are by no means a phenomenon solely confined to the EU, it does show that lobbying in Brussels is far removed from the image of a quaint harmonious village. Much of the lobbying activity taking place in Brussels is hidden from the public eye, and extends beyond pure information exchange. A lot of interaction between interest groups and MEPs/EP policy advisors occurs on an informal basis in more subtle ways, such as receptions, lobbying events and the frequent job exchanges between EP assistants and lobbyists – a phenomenon known as ‘revolving doors’. Lobbying, therefore, raises questions of undue influence and



misuse of power, and of how EU decision-makers balance corporate against public interests (Nestle, 2007, p. 96).

### *1.2.3.1 MEPs dependency on interest groups*

The challenge of balancing corporate interests against public interests is particularly acute in the EP, where no formal requirements are in place for MEPs' consultation of affected interest groups. This stands in contrast to the European Commission's wide use of deck-stacking strategies (such as consultations and funding of diffuse interests), aimed at alleviating the information asymmetry existing between regulators and regulatees. Unlike the European Commission, the EP has no formalised deck-stacking strategies to ensure a degree of symmetry between competing interest groups. The EP's consultation of stakeholders is not institutionalised as it is to some degree in the European Commission, with the social dialogue<sup>5</sup> in employment affairs and its various committees and experts groups. As one lobbyist lamented:

When it comes to stakeholder consultations, Parliament is in many ways the least democratic EU institution. MEPs can speak to whoever they want to talk to, and unlike the Commission, they don't have an obligation to consult stakeholders widely.<sup>6</sup>

The lack of mandatory consultations in the EP raises 'questions about the role of rapporteurs and other key MEPs in gathering evidence and committees in holding formal or informal hearings' (Tanaesescu, 2009, p. 48). As in any legislature and bureaucracy, a significant resource-dependency exists between interest groups and MEPs. MEPs have an extremely busy agenda and spend most of their time living out of a suitcase travelling to Strasbourg, Brussels, and

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<sup>5</sup>The European Social Dialogue refers to consultations, negotiations and discussions between the European trade union and employers' associations. It takes two main forms: a tripartite dialogue involving the public authorities, and a bipartite dialogue between the European employers and trade union organisations. The bi-partite dialogue takes place at cross-industry level and within sectoral dialogue committees. European social partners have the right to be consulted by the European Commission and may decide binding agreements.

<sup>6</sup> Interview, UEAPME, 15 March 2011

their national constituency. Much of the EP's work involves highly technical issues, where expert knowledge is required. MEPs survive with few assistants and policy advisors, who are not necessarily experts on the dossier under consideration. Each MEP usually has two assistants, one intern, and two policy experts in their group secretariat from whom to seek advice. Political group policy advisors and committee administrators tend to be generalists within their area rather than specialists (Corbett, Jacobs, & Shackleton, 2007, p. 151). MEPs, MEP assistants, and EP advisors, therefore, have a strong appetite for information and support from interest groups. Rapporteurs and shadow rapporteurs rely heavily on interest groups to provide them with information and to translate complex and technical information into brief digestible notes (Earnshaw & Judge, 2006). The EP's extensive workload gives room for lobbyists to influence MEPs, assistants, and policy advisors. As one policy advisor expressed it:

We cannot do our work without the information from interest groups. They send us amendments and voting lists prior to the committee and plenary votes. Sometimes it is very tempting to copy and paste their amendments and voting lists. I mean we are all so busy in Parliament.<sup>7</sup>

The indispensable relationship between interest groups and MEPs is also highlighted by Kohler-Koch (1998), who remarks that MEPs are particularly open to lobbying due to their information deficiencies and time constraints. Most MEPs, assistants, and parliamentary policy advisors cannot imagine doing their work without the information from interest groups. As one MEP explained:

The EU legislation is so complicated and technical that I am hugely dependent upon interest groups to provide me with an assessment of the European Commission's proposal. I cannot do my work without them....It is also my democratic duty, as a politician to consult the interest groups that are affected by our decisions.<sup>8</sup>

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<sup>7</sup> Interview, EP policy advisor, 1 September 2010

<sup>8</sup> Interview, MEP, April 2009

While the European Commission often spends three to four years preparing a proposal with advice from a large number of expert and high-level groups, a rapporteur in the EP only has a few months to prepare a report. Hence, committee rapporteurs are particularly prominent lobbying targets and often lean heavily on interest groups for information when writing reports. In the words of a BusinessEurope representative, ‘the Parliament’s lack of in-house expertise leaves a huge space for interest group influence’.<sup>9</sup> The ‘huge space’ for interest group influence raises the question of what, when, and how interest groups are able to influence EP policy outcomes. The following two sections look at the nature of EP elections and party composition and the type of information required by MEPs. This will provide theoretical expectations for the nature of interest group influence in the EP.

#### *1.2.3.2 EP elections and party composition*

The conventional knowledge in the EU interest group literature is for diffuse interests to enjoy particularly easy access to the EP because they are assumed to hold information about public support and to be particularly helpful for re-election (see for instance, Bouwen, 2002, 2004; Michalowitz, 2004). The rational choice assumption that MEPs are primarily driven by re-election incentives and wish to satisfy the demands of their constituency is, however, highly dubious. It is well known that MEPs are not held directly accountable to the public. EP elections are fought on national rather than European issues. They are often treated as midterm national beauty contests used as a stick with which to beat an incumbent government. The declining turn-out to EP elections, as well as the protest votes against parties in government (voters often vote for parties in opposition or periphery parties), suggest that Reif and Schmitt’s depiction of the 1979 EP elections as ‘second-order elections’ is as true today as it was during the first parliament elections (Reif and Schmitt, 1980). The EP ‘is largely shielded from direct popular control because EP elections are usually

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<sup>9</sup> Interview, Business Europe, 30 April 2009

decided on domestic themes and popular interest in the EP's work remains low between elections' (Princen and Kerremans, 2005: 8).

There is no EU-wide media, which makes it difficult to reach a larger audience. The EU's character as a functionally restricted polity, together with the EP's 'untheatrical way of going about its business, means that the European Parliament's media coverage in most countries is far less than its considerable influence deserves' (Corbett, 2012). When EU affairs are covered in the national media, they are given national frames of interpretation, reaffirming the role of the nation state rather than legitimising the EU. All these features suggest that MEPs might be less responsive to the public than national politicians, as a clear link between MEPs and the electorate is missing. Contrast this with the US Congress, where both representatives and senators have closer ties to their voters and take on a larger number of constituency-related activities through 'casework'<sup>10</sup>. The short mandate of US representatives (two years) leaves the House of Representatives in a state of almost constant state of campaigning and creates a very different context compared with the EP. Unlike the EP, US representatives are constantly under the public eye. EP elections are only fought every five years using a proportional voting system, and MEPs are not dependent on corporate funding for their (re-)election.

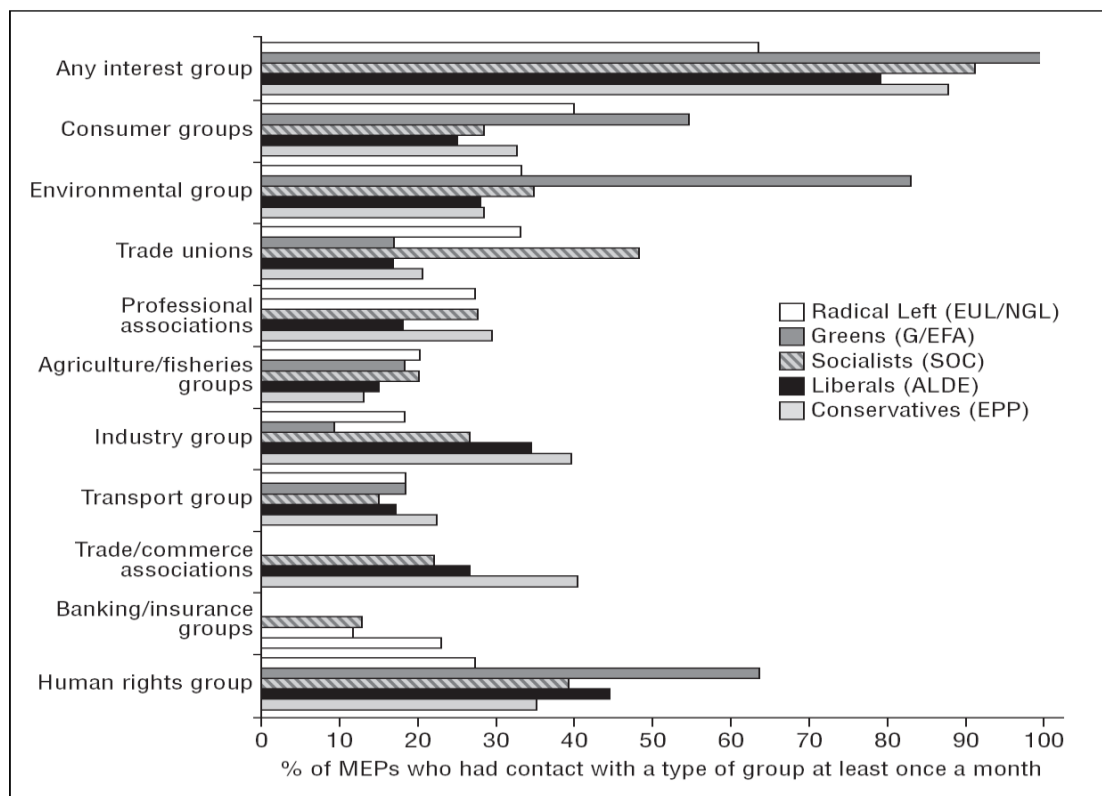
While MEPs might be less responsive to their electorates compared with US representatives, the current EP centre-right majority suggests that MEPs may generally lean more towards the interest of business than that of labour and other diffuse interests. This view seems to be confirmed in recent MEP survey data conducted by Hix and Høyland (2011). As illustrated in figure 1.1, MEPs from political groups on the centre-right have more contact with producer groups than political groups on the centre-left. The table shows that MEPs are more likely to be in contact with interest groups with whom they share

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<sup>10</sup> Casework refers to representatives' assistance to constituents in their dealings with federal agencies in cases where individuals or groups have a common concern related to a federal problem, rule, regulation, or administrative decision. This may for instance be a Medicare reimbursement claim, a rejected veteran's entitlement, or a delayed social security payment (Pontius, 2003).

preferences than with interest groups holding opposing views. MEPs from the centre-right (EPP members) more often have contacts with interest groups representing industry, trade/commerce, and banking/insurance than with any other interest groups. Liberal MEPs (ALDE members), have contact with a more diverse set of interest groups. Lastly, centre-left MEPs (S&D, Greens/EFA, and GUE/NGL), are more often in contact with trade unions, environmental interests, and human rights organisations (Hix & Høyland, 2011, p.183). However, the diversity of political cultures, parties, and nationalities within the EP means that interest groups can find supportive MEPs, groups, and committees on almost every issue of interest.

Figure 1.1: MEPs' contact with interest groups



Source: Hix & Høyland, 2011, p.184

The 2009 EP elections gave a comfortable majority to Parliament's centre-right political parties (the EPP and ALDE) with the EPP becoming the largest group in the EP (commanding 265 out of 736 seats). However, no single group holds the

majority in the EP and coalitions vary across issues. ALDE and the EPP do not represent a stable voting coalition, but are plagued by division both within and between them. Recent VoteWatch<sup>11</sup> data scrutinising how MEPs vote during roll call votes<sup>12</sup> shows that the EPP is less often on the winning side in the current parliamentary term (2009-2014), compared to the last parliamentary period (2004-2009). Although the centre-right (the EPP and the ALDE) commands a majority in the EP, they do not always vote together. When a left-right split occurs in the EP (which is expected on issues pertaining to employment), ALDE is more inclined to vote with the S&D than with the EPP (VoteWatch, 2011b). This highlights the ideological diversity of the EP's political groups, bringing together parties from diverse historical and cultural contexts. The EPP, for instance, brings together corporatist parties from Benelux, France, Germany and Austria and more free market parties from Scandinavia and Eastern Europe. This suggests that EPP MEPs from more corporatist parties might be more open to trade unions' demands than the MEPs belonging to the latter group. Fissures within the EP political groups mean that businesses are not necessarily faced with a friendly lobbying environment despite the EP's current centre-right majority.

#### *1.2.3.3 The type of information required by MEPs*

In order to understand under what conditions business interests might be particularly likely to shape policy outcomes in the EP, it is necessary to look at the type of information needed by MEPs. For instance, Bouwen (2002, 2004) has used the resource-dependency model to examine the informational needs of MEPs and the level of access MEPs give to different forms of business interests.

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<sup>11</sup> VoteWatch is a public website that monitors how MEPs vote during roll call votes, for more information see: [www.votewatch.eu](http://www.votewatch.eu).

<sup>12</sup> Measuring cohesiveness and coalition formation by analysing roll call votes is not without its problems. Roll call votes only comprise approximately one-third of all votes in the EP, and may reflect a political group's strategic attempt to secure group discipline and/or reveal that another group is internally divided (naming and shaming). Various studies show that roll call votes are not called evenly across the full gamut of issues and voting procedures (Carrubba & Matthew 1999; Thiem 2006).

He distinguishes between European associations, national associations, individual firms, and consultants, and argues that each of these organisational forms supplies different access goods: expert knowledge, information about the European encompassing interest, and information about the domestic encompassing interest. In inter-institutional comparison, Bouwen concludes that the European Commission is particularly open to companies that can provide it with technical knowledge. Meanwhile, the Council, according to Bouwen, is more open to national interest groups so as to obtain information on the 'national encompassing interests'. Lastly, the EP requires information that can help it with evaluating the European Commission's proposals from a European perspective (Bouwen, 2002, 2004). This leads Bouwen to conclude that European associations enjoy higher levels of access to MEPs than national associations and individual firms. While interesting, Bouwen's research does not examine whether or not interest groups' access patterns differ across policy domains. His findings remain limited to the EP's economic and monetary affairs committee. Furthermore, his study only looks at business lobbying and does not take into account the level of access other groups enjoy to MEPs, such as labour unions and NGOs. It is necessary to distinguish between the types of information needed by MEPs in general, as well as how this may vary across policy areas. Generally both theoretical and empirical research on EU lobbying focuses mainly on business lobbying, while only very few studies focus on diffuse interests (for important exceptions, see Beyers, 2004; Chalmer, 2013).

The EP has two institutional faces; it is both a legislative branch in EU decision-making together with the Council and a public venue for wider political debate (Lehman, 2009, p. 55). The EP needs information that allows MEPs to understand and critically assess the technical details of the European Commission's proposal, while at the same paying attention to issues that are of interest to the media and a large number of citizens. The EP is in need of both technically and political information, which provides it with output and input legitimacy respectively. The EP's internal bifurcation leads to the expectation that MEPs are likely to be more receptive to those interest groups that can satisfy their thirst for both technical expertise and public support. As Coen

notices, business groups often reformulate their arguments when lobbying the EP to create wider issue linkages and focus on wider public goods (2009, p. 153). It is not enough for business groups to advertise that an amendment has a positive effect for some industries in order to be adopted by a majority of MEPs. Public goods, such as increased food safety and improved working conditions for employees, also need to be part of the equation (Lehmann, 2009, p. 52). Framing of issues is expected to be of key importance when lobbying the EP. Framing denotes 'subtle alterations in the statement or presentation of judgement and choice problems' (Iyengar, 1991, p. 11). Interest groups are likely to carry significant weight in the EP if they manage to get their frames parroted in the media, increasing the salience of an issue in which the wider public will be on their side. The EP is expected to pay particularly close attention to issues that receive sudden media attention. Therefore, outside lobbying tactics (such as big campaigns and media attention) are expected to attract more attention in the EP than in the European Commission and the Council.

The intensity of the exchange relationship between interest groups and MEPs is, however, likely to differ across policy domains, and the need for information varies according to the specific issue context (Klüver, 2013, p. 57). Every policy issue has its own characteristics; some issues might be very complex and technical whereas others are easy to understand but might be politically controversial. Lobbying does not take place in a vacuum, as interest groups are embedded in both an institutional and policy issue environment. While there might be certain informational needs that cut across policy domains in the EP, the type of information required by MEPs is likely to differ across policy issues. In line with Wilson's typology, the characteristics of the policy issue in question are expected to affect the ability of interest groups to influence the EP's reports. As highlighted by Klüver (2013, p. 57), 'the issue context defines the environment in which interest groups are competing for influence and it can facilitate or hamper their ability to influence European policy-making'. MEPs' demand for the expertise provided by interest groups differs from policy proposal to policy proposal. Some policy proposals might require technical expertise and information about the feasibility of a proposal



(associated with output legitimacy), while other proposals require more political information, such as information about public opinion (associated with input legitimacy). Distinctive interest group constellations are expected to emerge across policy issues depending on the informational needs of MEPs for the policy proposal at hand.

The demand for technical expertise is likely to be higher for EP committees dealing mainly with purely regulatory issues concerned with product standards. One such example is environmental policy proposals, which are often highly complex and require knowledge about technical solutions to address the policy problem at hand. For instance, the vans regulation (presented in chapter 3) raises technical questions such as: how much air pressure do you need in a car tyre for the car to pollute less? And what are the possibilities of downsizing car engines to cut CO<sub>2</sub> emissions from cars? Other issues are less complex, but highly controversial. The maternity leave directive (presented in chapter 6) is relatively easy to comprehend but highly conflictual due to member states' very different welfare constellations and provisions when it comes to pay during women's maternity leave. Here the expectation is that MEPs require information about public opinion, as well as the situation in their member state. The expectation is for regulatory policies dealing with product standards to be less politicized than distributive and redistributive policies dealing with process standards. The latter two policies typically refer to what Wilson calls client politics and interest group politics respectively. Regulatory policies mainly fall within Wilson's entrepreneurial politics category, although it depends on the specific cost/benefit profile of proposals. Painting with the broad brush, distributive and redistributive policies are expected to be more politicised than regulatory policies (Princen & Kerremans, 2008; Scharpf, 2009). This leads to the expectation that those EP committees that deal with highly technical and complex issues are mainly lobbied by and give deference to business groups. Conversely, committees that primarily deal with political issues are likely to place greater emphasis on input legitimacy and have a strong presence of lobbying from diffuse interests.

### **1.3 Parliamentary pressure points: where does lobbying take place?**

The last part of this chapter presents the EP's pressure points in terms of where, when, and how lobbying takes place. The EP is a complex institution with multiple opportunities for log-rolling and internal veto points for interest groups to lobby: the plenary session, the specialized committees, the committee secretariats, the political groups, the group secretariat, public hearings, and the intergroups. However, not all of these venues are equally important when it comes to lobbying. Drawing on what we already know about the EP's legislative behaviour and organization - such as the role of interests and ideology and how the EP political groups and committees work - this section shows that lobbying is focused on a few key MEPs in the responsible committee(s). Identifying power in the EP and the pressure points for interest groups requires a sound insight into the formal and informal parliamentary procedures. What appears from the outside to be key pressure points is sometimes quite different on the inside.

#### *1.3.1 The EP's policy process*

At first glance, the plenary sessions appear to be the most important venue for studying lobbying because the full chamber has the final say on all legislation going through Parliament. All proposals need the support of either a simple majority at first reading or an absolute majority at second reading to be accepted, or rejected. Only decisions reached in plenary have the support of Parliament. Despite the plenary's vital role for passing legislation, all the preparatory work takes place in its specialized committees. All legislative proposals are referred directly to the responsible committee, which proposes amendments to the European Commission's proposal in the form of a report, before forwarding it to the plenary in a more or less 'take-it-or-leave-it' form (Hix 2005, p. 93). The EP's position is usually decided in the responsible committee ahead of plenary discussions and votes (Mamadouh & Raunio, 2003; McElroy, 2006).

When a European Commission's proposal 'arrives' in the EP, the Conference of Presidents appoints one committee - the responsible committee - to be in charge of scrutinising the proposal and one or more (usually not more than two) committees as opinion-giving committees. Opinion-giving committees may table amendments to the European Commission's proposal, but the responsible committee is not obliged to take opinion-giving committees' amendments on board, although these amendments have to be voted upon. It is not always a straightforward task to decide which committee should be in charge of a dossier because proposals may cut across the remit of several committees. Since 2002, the EP has introduced what is called 'the reinforced Hughes procedure', which aims at enhancing cooperation between committees when a piece of legislation intersects the policy remit of several committees. In cases where the reinforced Hughes procedure is invoked, opinion-giving committees become 'associate committees', indicating that they enjoy almost equal status with the responsible committee. The reinforced Hughes procedure involves a jointly agreed timetable for examining the legislative proposal in question, and for the rapporteurs of the opinion-giving and lead committees to seek agreement on the amendments they propose to their committees. The most contentious element is that the procedure calls upon the responsible committee to accept without a vote the amendments from the opinion-giving committee if they relate to its field of jurisdiction. Associate committees have tried to give the procedure practical significance by sending the lead committee a list of its adopted amendments with an indication of which of these amendments it considers to fall within its policy remit. In practice, however, the reinforced Hughes procedure has not significantly changed the prime position of the responsible committee. This is because the responsible committee may still contest the amendments put forward by the opinion-giving committee if the chair of the responsible committee does not consider these amendments to fall within the competence of the opinion-giving committee (Corbett, et al., 2007, p. 136).

Once a report is adopted at committee level, it is put forward to the plenary. At the committee stage, all individual MEPs can put forward amendments, whereas amendments launched at the plenary must be tabled

either by a political group, or at least 40 MEPs. These rather restrictive requirements limit the possibilities for MEPs to amend legislation at the plenary and for interest groups to convince MEPs to put forward specific amendments. I therefore expect lobbying to be concentrated at the committee stage rather than at the plenary stage. Table 1.2 highlights the main differences between the first, second, and third (conciliation) readings of the ordinary legislative procedure in terms of the time limits, possibility to launch amendments, and voting rules.

Table 1.2: Differences between the three readings of the ordinary legislative procedure

	<b>First reading</b>	<b>Second reading</b>	<b>Conciliation</b>
<i>Timing</i>	No time limits	Strict time limit of 3-4 months for the EP, and max 4 months for the Council	Max 24 weeks
<i>Who is responsible?</i>	The lead and opinion-giving committees	Only the lead committee	Primary responsibility lies with the EP's negotiation team to the conciliation committee
<i>What is the basis of the discussion?</i>	European Commission proposal	Common position	Council's common position and the EP's second reading amendments
<i>Possibility to table amendments</i>	Both at the committee (any MEP) and the plenary stage (40 MEPs need to sign or a political groups)	Same as in first reading	No possibility to table amendments. The joint text as a whole is either approved or rejected in a single vote
<i>Required majority at plenary</i>	The EP decides to either reject, approve, or amend the Commission's proposal by a simple majority	The EP approves the common position by a simple majority, but rejects or amends by an absolute majority	The EP approves or rejects the joint text by simple majority in a single vote

Source: Adapted from De Cock (2010, p. 200).

As can be seen from table 1.2, it is easier to get amendments passed by the EP at first reading because the EP only needs to muster a simple majority of MEPs present during the vote to adopt amendments. The Council examines the European Commission's proposal in parallel to the EP, but it normally only confirms its common position formally when the EP has concluded its first reading, and the European Commission has issued its amended proposal (for more on this, see the European Parliament's Rules of Procedure, 2012). There are no time limits laid down in the Treaty for the Council's adoption of its common position at first reading, although it takes 15 months on average (De Cock 2010, p. 106). When the EP and the Council attempt to reach an agreement at first reading, they organise informal trialogue meetings attended by representatives from the EP (the rapporteur and shadow rapporteurs), the Council (chair of the relevant working group and Coreper), and the European Commission (chef de dossier and the relevant Secretariat-General). If agreement cannot be reached at first reading, deliberations continue into a second reading. Compared with the first reading, rules regarding timing, the type of amendments that can be launched, and voting thresholds are more stringent at second reading. The EP is given three months to react to the Council's common position, and to suggest amendments to it. Amendments must reflect in whole or in part amendments put forward at first reading, and therefore no new amendments can be put forward unless new facts or legal situations have emerged since the first reading. Unlike the first reading, the text to be amended by the EP at second reading is the Council's common position instead of the European Commission's proposal, and only the EP's lead committee is involved. At plenary during second reading, an absolute majority of the EP's total number of MEPs is needed to reject or amend the Council's common position, whereas the adoption of the Council's common position only requires a simple majority. This rather restrictive rule means that grand voting coalitions between the *European People's Party* (EPP) and the *Group of the Progressive Alliance of Socialists and Democrats* (S&D) are an oft-occurring feature of the EP's second

reading. Debates in plenary rarely go into detail and rarely introduce completely new amendments (Neuhold, 2001).

Hageman and Høyland (2010) find that disagreement in the Council reduces the ability of the EP to meet the absolute majority voting threshold during its second reading. Disagreement in the Council has a tendency to spill over to disagreement in the EP. The reason is probably that national governments are more likely to put pressure on their national MEPs on highly contentious issues than on non-contentious issues. I therefore expect lobbying to be less effective on highly conflictual issues – defined as divisions within the Council – when MEPs are subject to pressure from their governments, particularly for those MEPs whose national party is in government.

The stricter rules at second reading means that ‘missing the boat in first reading is usually fatal’ (De Cock 2010, p. 108) for interest groups because new ideas and amendments cannot be included in the EP's second reading report. Lobbying during the EP's second reading is focused on preserving what interest groups may have obtained at first reading to make sure that amendments are not lost during the horse-trading between the EP's political groups and between the EU institutions. Once a proposal goes into conciliation, there is little (if anything) interest groups can do to influence the passage of dossiers. Therefore, lobbying is expected to be concentrated on the EP's lead committees during the first reading of proposals. The key role of committees in the EP's internal decision-making procedure is highlighted by the fact that the plenary cast a vote on a committee report rather than the European Commission's proposal. The need to make an early start in beginning lobbying the EP has become even more important following the Lisbon Treaty because of the wider application of the ordinary legislative procedure and the increased use of informal trialogue meetings between the EP and the Council. The treaty has extended the former co-decision procedure to 40 policy areas, such as agriculture and the budget as a whole (previously, the EP was only a co-legislator on non-compulsory expenses). This raises the expectation that the earlier in the legislative process an interest group gets involved, the better chances of having an impact on the decision-

making process. This is because it is more difficult to modify a proposal the further along a proposal advances in the decision-making process.

### *1.3.2 Differences between decision-making procedures*

The further extension of the co-decision procedure (now known as the ordinary legislative procedure) has not only changed the inter-institutional triangle but also brought with it new working methods and norms within the EP. Different patterns of behaviour exist under the consultation and the ordinary legislative procedure (Burns & Carter, 2009; Maurer, 2003; Ripoll Servant, 2011). The two procedures are more than just rules of procedures; they each represent a different set of norms that guide legislative behaviour (Shackleton & Raunio, 2003, p. 172). Different procedures engender different behaviour from both the Council and the EP.

Consultation tends to encourage free-riding behaviour on the part of both the EP and the Council, and both institutions are tempted to ignore the views of each other (Jupille, 2004, p. 48). The Council is not required to take the EP's view into account under the consultation procedure and can, therefore, choose to completely ignore the EP's amendments. Since the EP cannot be held accountable for the policy outcomes reached under the consultation procedure, it is free to take up a more confrontational stance toward the European Commission's proposal without being punished electorally (Scully, 1997, p. 239). Furthermore, EP voting coalitions are more flexible under consultation than under the ordinary legislative procedure due to the relative low majorities required in the EP (simple majority voting). This makes it easier for smaller political groups to influence the EP's report, thus opening up the ideological fingerprints of the EP's report to periphery parties.

The ordinary legislative procedure, on the other hand, is generally characterised by more consensual behaviour and stable coalitions between the main political groups (EPP, ALDE, and S&D), marginalising smaller groups. As Hausemer (2006, p. 513) expresses it, absolute majority requirements have led to a 'tyranny of the majority' in the EP, where smaller groups have been side-

lined. The high voting thresholds in the EP's second reading during the ordinary legislative procedure has been crucial for internalising the need for compromise inside the chamber (Ripoll Servent, 2011). It is widely known that the co-decision II procedure<sup>13</sup> has led to a greater use of informal negotiating channels between the EU's institutional triangle (the European Commission, the EP, and the Council) and an increase in legislation finalised at either first reading or an early second reading (Settembri & Neuhold, 2009, p. 144). Informal trialogue meetings have changed from largely being a mechanism to avoid the laborious and often unrewarding conciliation procedure to attaining the status of normal behaviour under the ordinary legislative procedure (Burns & Carter, 2009; Shackleton & Raunio, 2003). The increased use of early agreements has led the EP to 'acquire a feeling of shared responsibility – revealed in a softer use of language and more moderate stances in its reports' (Ripoll Servent, 2011, p. 60). This leads to the expectation that lobbying is most effective when targeted at Parliament's largest political groups, at least when lobbying on co-decision files.

Under consultation procedure, the EU resembles a unicameral system with the Council as the main decision-maker and the EP only having an advisory role. In contrast, under the ordinary legislative procedure, the EU resembles a bicameral system with equal powers given to the Council and the EP. It is often argued that decision-making under bicameralism is more predictable and stable than decision-making in unicameral systems (Costello, 2011, p. 122; Hammond & Gary, 1987; Riker, 1992; Tsebelis & Money, 1997). This certainly also seems to be the case in the EP, where committees primarily operating under the consultation procedure take up more extreme and unpredictable positions than committees mainly working under the ordinary legislative procedure.

Not all committees operate entirely under the ordinary legislative procedure. The most extreme case is the foreign affairs committee, which works entirely under the consultation procedure. Other committees – such as the women's rights committee (FEMM), the social and employment committee

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<sup>13</sup> The co-decision II procedure was introduced with the Amsterdam Treaty and states that the Council cannot reaffirm its common position following a breakdown of the conciliation committee.



(EMPL), and the committee on civil liberties, and justice and home affairs (LIBE) – work under both the consultation and the ordinary legislative procedures. The presence of two distinct procedures in some committees not only implies differing legislative powers, but also two different and contradictory behavioural logics, creating a state of schizophrenia. As Ripoll Servant (2011) shows in her study of the LIBE committees' voting patterns, policy outcomes of committees with dual behaviours tend to be more volatile compared with those committees that only work under the ordinary legislative procedure. I expect the policy outcomes of committees working under several legislative procedures to be less predictable, which might discourage interest groups from investing significant lobbying resources in these committees. Furthermore, committees are often biased towards their own policy remit and might therefore favour some interest groups over others. For instance, McElroy (2006) finds that MEPs from the committee of environment, public health, and food safety (ENVI) tend to have closer links to environmental groups than other MEPs. Furthermore, Kaeding (2004) finds a tendency for MEPs from countries with higher environmental standards (such as the Nordic states) to be overrepresented as rapporteurs in ENVI. In line with Wilson's category of entrepreneurial politics, this leads to the expectations that ENVI MEPs might be seen as policy entrepreneurs for diffuse environmental interests, making it more difficult for industry groups to have their voices heard in ENVI. Similarly, other committees may be biased towards their policy and have particularly close ties with certain interest groups over others.

### *1.3.3 Key power-holders in the EP*

The increased use of informal negotiations has not only brought with it a distinct set of norms, but also led to a power shift between parliamentary actors with committee chairmen losing influence to rapporteurs and coordinators. Although all committee members have potential influence over the committee outcome, the greatest influence is wielded by a core group of particularly 'powerful' MEPs:

- *The rapporteur*: MEPs with the task of examining a European Commission proposal in a committee report. The choice of rapporteur is decided with the use of a point system. Each political group receives a number of points per committee in proportion to its size, and each report gets allocated a certain number of points by the coordinators of each committee, allowing the political groups to bid for the report. The rapporteur's role includes: presenting a draft report suggesting amendments to the Commission's proposal, presenting the report in plenary and negotiating with the Council.
- *The shadow rapporteurs*: Once a report has been designated, the other political groups designate their own shadow rapporteurs to advise them on the draft legislation in question. The shadow rapporteurs also establish voting lists for their political group to be used in plenary.
- *Group coordinators* (group whips): MEPs with a coordinating role for their political group within a particular committee. Each political group appoints a coordinator for individual committees. They are their group's spokesperson on the specific committee. Coordinators are also responsible for negotiating how many points should be given to a report and who they will put forward as rapporteur if their group wins the bid, or shadow rapporteur if their group loses it. Group coordinators' role sometimes overlaps with the shadow rapporteur, especially in small groups. The political coordinators together with the shadow rapporteur influence the political group's position during debates and voting in the committee and plenary sessions.

Rapporteurs and shadow rapporteurs carry considerable weight in deciding the passage of a legislative proposal, and MEPs from the EP's biggest political groups usually follow the position of their rapporteur or shadow rapporteur. A survival tip from many Brussels lobbying guides is therefore 'to make sure that the rapporteur and the shadow rapporteurs are on your side' (De Cock, 2010, p. 51). Farrell and Hertier (2004, pp. 1187-1188) depict rapporteurs as 'relais

actors' who have 'quite extraordinary latitude to set the agenda of negotiations' and 'are particularly powerful when they are closely linked to large political groups and power brokers'. The flipside of rapporteurs' increased power has been a dwindling of the power of ordinary committee members and committee chairmen. A recent study by Judge and Earnshaw (2011) on the EP's processing of the advanced therapies dossier concludes that the definition of relais actors needs to be extended to shadow rapporteurs because they play an increasingly active role in early agreement negotiations. The key importance of shadow rapporteurs and coordinators has been explicitly acknowledged in the EP's revision of its code of conduct. The EP's Rules of Procedure, enacted in July 2009, explicitly state that committees may decide to involve the shadow rapporteurs in seeking agreement with the Council in co-decision procedures. This confirms the increased influence of key MEPs at the expense of committee chairmen and ordinary committee members. Following Farrell and Héritier's (2004, p.1206) basic contention, it is therefore 'fair to say that early agreements have resulted in substantial tension between individual actors within Parliament who have lost influence over law-making and relais actors who have gained influence'.

The importance of lobbying key MEPs is highlighted by the fact that these MEPs often serve as the de facto leadership of their group on the specific dossier under consideration. The political groups' positions are usually decided by the groups' expert MEPs of the relevant committee, rather than by the party leadership. Due to time and resource constraints, individual MEPs do not have enough information on every piece of legislation going through Parliament to make an informed choice. Therefore, they are dependent on their EP colleagues with expertise in the policy area under consideration to provide them with the necessary information. As Ringe (2010) shows in his study of EP party discipline, MEPs often adopt the positions of those expert colleagues with whom they believe they share preferences. The advantage of being a member of one of the larger groups is that MEPs can leave others to look after an issue in the expectation that the members of the same group will fight for the application of the same policy objectives. As one S&D MEP highlighted, 'everyone in the EP is

so overloaded with work that you just have to trust that your party colleagues pursue a social-democratic policy' (cited in Rasmussen, 2008).

#### *1.3.4 Influencing committee members*

The capacity of 'regular' MEPs to obtain information about a specific policy topic has, however, been improved through the procedure of public hearings organised by EP committees or political groups. The main aim of hearings is to invite experts and affected interest groups to participate in structured dialogue with committee members. Representatives from the European Commission and the Council often participate in these hearings and are frequently prompted to respond to the different views raised during hearings. Hearings provide an opportunity for MEPs to engage in explorative dialogue with interested parties. Although the use and importance of hearings has increased in recent years, their importance in terms of lobbying impact remains dubious. While hearings are often well-attended by outside stakeholders, few MEPs and assistants participate in them. The main information-flow between the EP and interest groups happens via informal contacts during the committee stage. The EP committees' decision-making procedure provides interest groups with three main entry points to influence committee members:

1. *The rapporteur's draft report phase.* The rapporteur writes a draft report suggesting amendments to the Commission's proposal. MEPs rarely have detailed expert knowledge of the specific proposal under scrutiny and therefore interest groups serve as the main information source. Interest groups often send position papers and amendments to the rapporteur during his/her report drafting.
2. *The amendment phase.* The rapporteur presents his/her draft report, which is then discussed by the committee as a whole. A deadline for amendments is set, where all committee members (and all other MEPs) can propose amendments to the rapporteur's report. Interest groups who have been

unsuccessful in getting their views reflected in the draft report now have a chance to influence all committee members and to convince ‘receptive’ committee members to launch amendments in the interest group’s favour.

3. *The voting phase.* At a following meeting, proposed amendments are voted upon by simple majority. Any adopted amendments are included in the final committee report. This report is hereafter submitted to the plenary, where it is formally adopted by Parliament. Interest groups often send out voting lists to committee members prior to the committee vote, indicating how they would like MEPs to vote.

Interest groups adept at playing the EP lobbying game are aware of the committees’ power distribution, deadlines, and formalistic requirements for submitting amendments. Indeed, as a representative from the Social Platform highlighted:

You have to know the deadlines and procedures of Parliament. When we draft amendments to MEPs, we use the European Commission’s proposal as a benchmark by using the exact same text but altered so it fits our position. We also send voting recommendations. The idea is to get Parliament’s own voting list template, change the title so it says the Social Platform and indicate with plus and minuses how we would like MEPs to vote. If you want to influence an MEP, you need to talk their language.<sup>14</sup>

Interest groups usually give priority to key MEPs and their assistants. Just like any other legislature, MEPs rely heavily on their parliamentary assistants and the policy advisors. As one EP committee administrator explained, ‘amendments are hardly ever written by the members themselves, either they come from outside Parliament or are written by administrators in the responsible committees’.<sup>15</sup> Most interest groups acknowledge that the MEPs’ assistants are as important to lobby as MEPs (if not more important). The assistants serve as

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<sup>14</sup> Interview, the Social Platform, 20 April 2010

<sup>15</sup> Interview, EP committee advisor, 21 September 2010

the MEPs' gate-keepers, and any meetings set up with MEPs usually go through the assistants. Knowing an MEP's assistant personally helps in terms of gaining access. This is something greatly acknowledged by lobbyists, who often invite assistants to informal drinks and food receptions in one of the numerous bars on Place Luxembourg (the square outside the EP). The importance of assistants is highlighted by the fact that it is often the assistants who hold meetings with interest groups on behalf of their MEP. Assistants and MEPs rely on assistance from the committee secretariat and their group advisors. The committee secretariat takes part in background research for the rapporteurs and is often involved in the drafting of reports. Despite the committee administrators' key role in writing amendments, they are rarely subject to intensive lobbying. Rather, interest groups call them up to ask for procedural information, which is often of great annoyance to committee administrators:

They [lobby groups] treat me as a service bureau like a library. Quite often, they want practical information, or documents, such as voting results from the committee. Many of the questions relate to procedures. Sometimes, they try to influence me, though, by asking questions, such as: are you sure this and this is a good idea?<sup>16</sup>

MEPs, assistants, and policy advisors frequently interact with interest groups in Parliament's so-called intergroups (for a detailed study of intergroups, see, Ringe, Carman, & Victor, forthcoming). Intergroups are informal cross-party groups consisting of MEPs from different political groups with an interest in a particular political theme. EP intergroups can be compared to All-Party Groups in the House of Commons. In the EU, intergroups are often established by interest groups - mainly by European Associations - who run the secretariat, provide the members with expertise and fund MEPs' activities. Intergroups are a valuable and timesaving lobbying option for interest groups because it is possible for them to target a whole group with their arguments at once, rather than approaching MEPs one at a time. There have been concerns that some

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<sup>16</sup> Interview, committee administrator, 16 April 2010

intergroups are too closely linked with certain lobbies. As a result, intergroup chairmen are obliged, under Rules of Procedure 9 (1), to declare any support (both financial and secretarial assistance) provided by interest groups. Currently, 24 intergroups are registered and officially recognised in the EP. However, I have estimated the unofficial number of intergroups to be over 80. Whenever I interviewed MEPs, MEP assistants, and EP policy advisors, I would show them a list of intergroups and ask if they knew of any intergroups, which were not on the list. This helped me to identify the large number of unofficial interest groups in the EP. The unregistered intergroups are not covered by the EP's rules. There is a huge lack of transparency surrounding their membership, activities, and funding sources. Many interest groups assert their non-partisan credentials and reject involvement in lobbying activities, although they run the intergroup secretariat and often produce detailed policy papers reflecting the interest groups views. While the political groups support some of the intergroups, others receive funding from the European Commission or directly from the industry. Interviewees included in my study saw intergroups as a way to build trustworthy long term relationships with MEPs, which come in handy when lobbying on specific dossiers.

#### **1.4 Conclusion**

The central argument of this theoretical chapter is that while business groups are likely to dominate politics at a systemic level, important variation is expected to occur on the sub-system level. While business groups may be powerful on some policy issues, they are unlikely to be dominant on all policy issues. Business interests are less likely to be influential in majoritarian and entrepreneurial politics than in client politics and (to some extent) interest group politics. Business influence is particularly likely to be restrained when business groups are faced with a strong counter-lobby (interest groups politics), when it has few stakes in an issue (majoritarian politics), and when issues are subject to increased media coverage and salience that goes against the views

held by business (entrepreneurial politics). On the other hand, business groups that operate in highly technical areas (usually that of product standards) subject to little public attention are likely to be particularly influential in leaving their fingerprints on the EP's reports. Therefore, I expect to find significant divergence in interest groups' lobbying activity levels and influence across policy domains.

Different types of policies require different types of information and legitimacy. Highly technical and complex policy issues are expected to require high degrees of technical information associated with output legitimacy, whereas more political and salient policy issues require more input legitimacy. Generally, diffuse interests are expected to provide information that is seen as political, whereas business interests provide information that is regarded as technical. This does not mean that diffuse interests never supply technical information or that business groups never offer political information. Nor does it mean that the categories of technical and political information provision are mutually exclusive. Rather it suggests that different types of interest groups hold different informational goods.

Interest groups with a concentrated stake in an issue are particularly likely to exert influence over policy outcomes of issues that are highly technical and have low salience. Highly salient issues bring attention to policy subsystems that might not normally receive a lot of attention, increasing the pressure for policy change. The ability of business groups to dominate policy outcomes on highly salient issues depends on their ability to forge alliances with other interest groups, such as diffuse interests, and to frame issues in a way that appeals to the broader public. Due to the EP's political rather than non-majoritarian agency structure, the EP is expected to be more susceptible to increased media pressure and public opinion than the European Commission and the Council. The EP has two institutional faces, which might give rise to some inherent tensions. It is an effective branch of the EU's legislative arm together with the Council, as well as a public arena for wider political debates. Just like the European Commission, technical information is an important currency of influence in the EP. On top of that, interest groups are also required



to provide MEPs with political capital that can improve their political standings nationally. This leads to the expectation that interest groups are more likely to be successful in the EP if they manage to link issues to wider public goods. It is not enough for business groups to highlight that a proposal has a positive effect on some narrow industry in order to find support among a majority of MEPs; issues also need to be linked to a public good. The framing of issues is, therefore, expected to play a key role in interest groups' ability to shape policy outcomes in the EP.

MEPs and EP policy advisors/assistants are dependent on interest groups to translate often complex and highly technical information into brief digestible notes. The EP's increased workload leaves room for interest groups to influence MEPs. Lobbying is expected to be particularly intense during the EP's committee stage at first readings, and mainly targeted at a handful of key MEPs. Influencing key MEPs is just a derived goal for interest groups. Ultimately, the interest organisations are concerned with influencing the outcome of the overall EU policy process. Formulating amendments to key MEPs and shaping the content of a committee report are crucial for determining the EP's, policy outcome and in the end, the EU's legislative outcome. Significant differences in interest groups' lobbying activities and influence potentials might occur across decision-making procedures. As seen in this chapter, researchers find that different procedures – consultation and the ordinary legislative procedure – are associated with a different set of norms and working procedures. The EP tends to be more consensus-seeking and pragmatic under the ordinary legislative procedure and more confrontational under the consultation procedure. Under the ordinary legislative procedure, lobbying is expected to be most effective when targeted at the EP's largest political groups, whereas fringe groups are subject to more lobbying under consultation. Although my four case studies only include dossiers subject to the ordinary legislative procedure, it is still possible to examine to what extent large political groups are a more favoured lobbying addressee than fringe groups during this procedure. In the next chapter, I present the considerations underpinning my selection of cases, as well as discussing the methods used to assess interest group influence.

## **Chapter 2: Interest Group Influence – a Framework for Analysis**

Is researching interest group influence ‘like looking for a black cat in a coal bin by midnight’ (as expressed by a lobbyist, cited in, Loomis, 1983, p. 184)? This thesis is premised on the idea that although interest group influence is difficult to assess, it is simply too important to be ignored. Understanding interest group influence is essential for understanding how EU policy outcomes come about. Moreover, the impact of interest groups on EU policy outcomes is central to debates on the EU’s democratic legitimacy (Dür, 2008b, p. 573). Improvement in our understanding of how and under what conditions interest groups manage to leave their fingerprints on EU policy outcomes rests on shrewd reflection of the definition of influence and how influence might be identified. Without a clear understanding of what is meant by influence and how influence can be identified, findings become rather meaningless, and difficult to compare with other studies (Betsill & Corell, 2001, p. 68).

The problem with much of the existing literature on interest group influence in the EU is that the indicators used for interest group influence may not constitute an apt proxy for influence. Most studies use interest groups’ activities (such as submission of information to decision-makers), access to decision-makers, and interest groups’ resources to assess influence (see, for instance, Beyers, 2002; Bouwen, 2004b; Broscheid & Coen, 2003b; Eising, 2004). Whilst access to decision-makers, lobbying activities, and resources are often a prerequisite for influencing policy outcomes, they only tell us how interest groups seek to influence the EU policy process, but not what impact they have had. As highlighted by Grant (1989, p. 113), ‘any study of pressure groups must be concerned not only with how they operate, but also with what they are able to achieve’. Examining interest groups’ lobbying activities, the level of access to decision-makers, and their resource arsenal only accounts for part of the story of interest group influence; they show how interest groups seek to influence. In order to get a fuller picture, it is necessary to analyse decision-makers’ responses to interest groups’ lobbying activities, access and resources, and to ask if lobbying has changed anything. In this chapter, I present an

analytical framework for assessing interest group influence and the research design used in the thesis.

The chapter is divided into two sections. The first section presents the considerations behind the selection of the thesis's four case studies. Furthermore, I discuss how the costs and benefits arising from the European Commission's proposals are assessed. The second section presents my analytical framework for assessing interest group influence. This involves a presentation of the type of information collected (i.e. how Wilson's typology is operationalized), the information sources used, and the methodological approach taken. My research is based on a qualitative comparative case study approach, which uses process-tracing integrated with typological theory. The combination of typological theory and process-tracing is useful for uncovering the interaction effects and causal mechanism at work in my four case studies (George & Bennett, 2004, p. 255). Wilson's typology helps to deductively chart the interactions and causal mechanisms that I expect to find in different categories of politics, and process-tracing makes it possible to examine if the theoretical expectations hold up empirically.

## **2.1 Case selection**

The main criterion guiding case selection should be a case's relevance to the research objective. The chosen case(s) should offer the type of variation needed to answer the research question. My choice of case studies was guided by three considerations. Firstly, I wanted cases that represent common policy areas of EU decision-making and that are subject to the ordinary legislative procedure, in which the EP is a co-legislator with the Council. While it is often difficult to generalise from case study findings, the choice of typical cases increases the external validity of my findings and serves as a reasonable indicator about anything lying outside the borders of the cases. This is because the cases selected are representative of a wider population.

Secondly, I wanted the cases to be either on-going (but adopted at the EP's first reading during my PhD research), or recent (a maximum of six months old) in order for interviewees to be able to recall the details of the cases. Memory is often a conundrum when conducting interviews. If a case is too old, interviewees will often have difficulties recalling the facts and details of the case. On the other hand, if a case is too recent, interviewees may be 'clouded by personal impressions and, oddly enough, by the very recentness of the episode' (Robert Rhodes James quotes in Seldon, 1988, p. 6). In the context of the EP, a case dating back more than a few years may already be too old due to the frequent turn-over of staff in the EP and MEPs' enormous workload, which means that the details of past cases might easily be forgotten. For all of my four case studies, I conducted interviews when the dossiers were on-going and shortly after they had been voted upon in plenary. This had the advantage of respondents being able to remember the details of the cases, but at the same time their answers might have been measured to avoid conveying sensitive information. Therefore, I always started off by telling the interviewee that they would remain anonymous and that I did not pass on information from one interviewee to another. Anonymity and confidentiality is an important aspect of research ethics.

Lastly, I wanted to choose cases representing different types of policies so as to have cases in which the distribution of costs and benefits flowing from proposals differs. The four case studies were chosen on the basis of the theoretical expectations in Wilson's typology and represent different configurations of the typology. The cases, thus, constitute most-likely cases for the four categories. Wilson's typology offers a clear set of expectations about how and under what conditions interest groups are likely to become active in the policy process and are able to shape policy outcomes. It identifies the 'pathways through which particular [policy] types relate to specified outcomes' (George & Bennett, 2004, p. 235). Interest groups faced with a prospect of shouldering concentrated costs or reaping concentrated benefits are expected to be more active in the policy process and more successful at leaving their fingerprints on the EP's reports than interests facing diffuse benefits or costs (Wilson, 1974).

A common dilemma when using methods such as case studies, thick description, and qualitative research more generally is data overload, in which the researcher might run the risk of losing sight of the bigger picture (Dunn, 2006, p. 375). Theoretical models and typological theories serve the role of guiding the research in terms of indicating the boundaries of investigation and data collection. Theoretical models help to identify the mechanisms to be investigated, and to link the observations made to theoretical concepts. Wilson's typology provides a conceptual map that helps to organise the empirical information 'into meaningful narratives, capable of conveying a coherent and convincing explanation' (Ripoll-Servent, 2011b, p.19). Table 2.1 shows how my chosen cases fit into Wilson's typology of the politics of policy. Although I only have four case studies, each case contains several issues and for some cases, several types of politics. As will be seen in chapter 4, different aspects of the food labelling regulation have different cost-benefit distributions and numerous politics. This highlights the importance of obtaining an in-depth knowledge of each case studied in order to be able to categorise cases more correctly and to understand the underlining causal mechanisms at play. The distribution of costs and benefits arising from the European Commission's proposals of my four cases are more thoroughly discussed in the empirical case study chapters.

Table 2.1: The four case studies and the politics of policy typology

	<i>Diffuse benefits</i>	<i>Concentrated benefits</i>
<i>Diffuse cost</i>	Majoritarian politics	Client politics
	• Food labelling regulation	• Food labelling regulation
<i>Concentrated costs</i>	Entrepreneurial politics	Interest group politics
	• Vans regulation	• Road transport working time directive
	• Maternity leave directive	
	• Food labelling regulation	• Food labelling regulation

The four case studies also represent different types of EU standard-setting: product and process standards. The vans regulation and food labelling

regulation represent cases of product standards, whereas the road transport working time directive and the maternity leave directive are dealing with process standards. This allows me to test the theoretical proposition that business groups are likely to be more united when lobbying on product standards than on process standards. As business groups operate under different national legislation, prior to EU harmonisation, some businesses may stand to win from EU harmonisation and others to lose. It cannot, therefore, be assumed automatically that all business groups will be on the same side in Wilson's category. Wilson's typology leads to the following expectations for each of the cases studies:

- *Vans regulation.* The car industry is expected to be particularly active during the EP's processing of the regulation to reduce CO<sub>2</sub> emissions from vans and more influential in shaping the policy outcome, unless MEPs act as environmental entrepreneurs and mobilise public support for a policy change. This may happen if environmental groups successfully manage to increase the salience of the issue in the media.
- *Food labelling regulation.* The overall characteristic of this regulation is that of entrepreneurial politics. The food industry is expected to have greater incentives to lobby the EP and be more influential than consumer groups. However, interesting variation exists on sub-issues within the regulation that amounts to client, interest group, and majoritarian politics.
- *Road transport working time directive.* This directive represents a typical interest group politics conflict with labour unions favouring strict regulation of working time to avoid social dumping, and self-employed truckers fearing that a restriction on their working time will hamper competitiveness and income. In this scenario both labour unions and employers' associations are expected to have strong incentives to become active on the issue. No single interest group is expected to dominate as the lobbying efforts of opposing groups are likely to counter one another.

- *Maternity leave directive.* Similar to the vans regulation, interest groups facing concentrated costs - in this case employers' associations - are expected to be more influential than labour unions and women's right organisations representing diffuse interests.

I use Wilson's typology to explore and speculate on what impact different interest groups have on the EP's policy outcomes. This does not mean that I am blind to other possible explanations of interest group influence. It is important to go into the empirical field fairly open-minded. This means that I do not solely ask questions in my interviews that would elucidate Wilson's propositions. If so, this would run the risk of leading to a 'premature closure of the mind with anything not specified in theory being ignored, whatever its palpable significance' (Rose, 1991, p. 448).

#### *2.1.1 Assessment of the distribution of costs and benefits*

The assessment of the distribution of costs and benefits arising from the European Commission's proposals is based on the Commission's impact assessments and interviewees' perceptions of the cost/benefit profile of the proposals. Impact assessments form part of the European Commission's preparation of new policy proposals, in which a systematic examination of various policy solutions (options) to a policy problem is undertaken. The EP has limited ability to conduct ex-ante and ex-post impact assessments of legislation although the EP's new Directorate for Impact Assessment may improve the EP's ability to conduct them. The EP is slowly starting to develop impact assessment functions independently from the impact assessments carried out by the European Commission (see, European Parliament, 2010j). At the heart of regulatory impact assessments is the attempt to assess the likely impact of the different regulatory solutions to the policy problem under consideration. They usually include concrete steps for desk officers in the European Commission to follow when drafting legislation, such as consultation of affected stakeholders. The European Commission's impact assessments include a comparison of the

different options under consideration and an assessment of the economic, societal, and environmental impact of the various policy options. However, it is often easier to estimate short-term, tangible, and economic costs and benefits (such as compliance costs of business) than it is to assess the long-term environmental and societal consequences of policy options. The Commission's impact assessments are often criticised for placing too much emphasis on tangible economic costs and benefits, while disregarding the long-term more diffuse societal impact of proposals. In the words of a representative from the European Heart Network (EHN):

It is difficult for proposals that include objectives to improve health to make it through the impact assessment panel and the College of Commissioners. This is because the process is skewed in favour of the costs a policy option may infer on the regulated industry, while it is immensely difficult to put an economic value on the costs imposed on society as whole.<sup>17</sup>

The quote shows that some interest groups see the European Commission's impact assessments as exhibiting a bias towards cost-overestimation due to the difficulty of quantifying more diffuse long-term benefits. It is important to note that the definition of costs and benefits constitutes an arena of contestation because costs and benefits of regulation are often difficult to assess. The empirical chapters sketch the cost-benefit profile of the four dossiers as enumerated in the Commission's impact assessment, as well as interest groups' own perception of the costs and benefits of the proposals.

## **2.2 Analytical framework for analysing interest group influence**

Before turning to the research design, I find it necessary to briefly present the definition of influence and the philosophical approach used in the thesis. The lack of research on the influence of interest groups is primarily a result of the difficulty to define, operationalize, and measure empirically the concepts of

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<sup>17</sup> Interview, EHN, 6 April 2011



power and influence (Dür & de Bièvre, 2007, p. 2). Early studies of interest group influence in the US (such as Dahl, 1957, 1958, 1961; Polsby, 1960) were criticised for not taking into account different dimensions or faces of power. These studies - representing the first face of power - conceived of power as an observable behaviour occurring when one actor convinces another actor to do something that they would otherwise not have done. This pluralist vision of power was, however, criticised for not taking into account that power can also be exercised at the agenda setting stage when the powerful manage to keep unwelcome issues off the agenda (Bachrach and Baratz, 1969). Later, criticism centred on the neglect of power that involves shaping actor's preferences in a way that is contrary to their own interest. Lukes (1974) argued that the most effective and insidious use of power is to prevent conflict from arising in the first place. Power involves situations where the powerful secure the compliance of the powerless by controlling their thoughts and desires through manipulation. Yet, other scholars (such as Giddens, 1986; Lindblom, 1977; Foucault, 1980) have argued that power might not only be relational (as is the case of the first three faces of power) but also structural. Power may be seen as a resource, such as the possession of economic resources as the medium through which power is exercised (Giddens, 1986; Lindblom, 1977). Power can also be understood as a productive and omnipotent force derived from constructive invisible institutions reflecting general consent and obtained through socialisation and discipline (Foucault, 1980, 1986, 1987).

With the theoretical literature on power and influence becoming more elaborate, it is increasingly difficult to study the concepts of power and influence without being criticised for violating certain aspects of them. Given the importance of different dimensions of power, no single analysis has to necessarily consider all of them. Studying the second and third faces of power is extremely difficult. How can we know what the 'genuine interest' of an actor is, when it is already difficult to determine actual preferences? Rather than conceding to defeat in the face of these difficulties, I consciously focus on specific aspects of the concepts, making it amenable to my empirical research. I draw on both a relational and structural definition of power combining Robert

Dahl's one-dimensional view on power with Anthony Giddens' emphasis on resources as the medium through which power is exerted. I assume that there is overt conflict between opposing interest groups, that interest groups hold clear and relatively stable policy preferences, and that business may be in a privileged position compared with diffuse interests due to its economic and technological power. Interest group influence is, thus, defined as: *the achievement of an interest group's goal in decision-making, which is caused by the interest group's own intervention (lobbying activity) and/or MEPs' anticipation of the group*. It is also possible to rewrite this definition in terms of the counterfactual in that a policy outcome is more in line with particular interest groups' preferences than would have been the case if they had not intervened or if MEPs had not anticipated them. Preference attainment is not a sufficient condition for influence in itself, as interest groups' goals and the policy outcome may coincide due to other factors unconnected to interest groups' lobbying activities.

Epistemologically, my thesis departs from a critical realist perspective by taking a scientific outlook that assumes 'a knowable world out there [...], a world whose workings are not [necessarily] transparent and which invites exploration to discern their deeper and truer contours' (Galanter & Edwards, 1997, p. 377). I am committed to ontological realism by assuming that there is a reality 'out there', which is layered and exists independently of the human mind. The reality might not be immediately and empirically accessible. Rather the world is seen to be composed of multiple layers of reality, including not only observable events and perceptions, but also underlying structures. Beneath our empirical observations, there is a level of reality, 'where the mechanism that instigates [observable] events exists' (Moren & Blom, 2003, p. 44). Of particular use for my study is the focus in critical realism on the link between human agency and structures. This link throws light upon underlying structures that cause particular events, and is known as generative mechanisms. In the case of the EU, underlying structures may be structural and technological power held by businesses, or wielded by decision-making rules precipitating certain behaviour. Structures may not always be manifest in experience and may not even be realised. Business holds structural power because it may threaten to close down

workplaces, relocate factories and investment abroad, even if this is not actualised. Structures, such as rules and resources, are 'capable of producing patterns of events' (Carlsson, 2003, p. 4). Critical realism sits well with my definition of influence, which highlights how influence might be a result of both interest groups' own lobbying effort (relational influence) and MEPs' anticipation of interest groups (structural influence).

Given the definition of interest group influence and my epistemological and ontological position, I now turn to the type of evidence needed to establish interest group influence. Studies examining interest group influence in the EU can generally be divided into two strands. The first strand uses interest groups' access to decision-makers as a proxy for influence (such as Bouwen, 2002, 2004). The second strand focuses the research lens on the policy outcome and the extent to which interest groups have their preferences reflected in the final policy outcome, while black-boxing the process preceding the outcome (such as Klüver, 2013). My research builds the bridge between those researchers that only focus on interest groups' activities/access patterns, and those that solely focus on interest groups' influence on policy outcomes. Wilson's typology is particularly helpful in this regard as his typology not only provides hypotheses about the policy outcome, but also about the policy process leading to the policy outcome. This double focus enables me to focus on both interest groups' lobbying activities during the policy process and their impact on the outcome. In concurrence with Wilson's dual focus, my assessment of interest group influence happens in a two-stage process. Firstly, interest groups must transmit their position to MEPs/EP policy advisors, and secondly, this information supply must subsequently lead to an alteration in the behaviour of MEPs/EP policy.

I do not attempt to conduct a quantitative measure of interest group influence. Quantifying influence may run the risk of giving a 'false impression of measurability for a phenomenon [influence] that is highly complex and intangible' (Betsill & Corell, 2001, p. 80). Instead of seeking to quantify influence, I provide a qualitative assessment of interest group influence by drawing on different types of information to assess if, and under what conditions, interest groups in my four cases studies managed to influence the

EP's policy outcome. Table 2.2 presents the analytical framework which I have used to study interest group influence in the EP, which is discussed in what follows. In the table, I distinguish between three main dimensions: information type, information source, and methodological approach. The type of information concerns the operationalization of Wilson's framework. This entails the formulation of interview questions that shed light on both the policy process and the policy outcome. The information source refers to the evidence used to assess interest group influence. Lastly, research methods refer to the methods used to analyse interest group influence.

Table 2.2: Framework for analysing interest group influence

	<i>Intentional transmission of information</i>	<i>Behaviour of decision-makers</i>
<b>Information type</b>	<p>Interest groups' preferences and participation</p> <p><i>Activities:</i> What did interest groups do to pass on information to decision-makers?</p> <p><i>Access:</i> What opportunities did interest groups have to communicate this information?</p> <p><i>Resources:</i> What sources of leverage did interest groups use to communicate their position?</p>	<p>Goal attainment</p> <p><i>Process:</i> Did MEPs discuss issues proposed by particular interest groups (or cease to discuss) issues opposed by interest groups?</p> <p>Did any interest groups coin terms that became part of the jargon among MEPs?</p> <p><i>Outcome:</i> Does the final policy outcome contain text drafted by interest groups?</p> <p>Does the final outcome reflect the preferences of particular interest groups?</p>
<b>Information source</b>	<p><i>Primary texts:</i> EU documents and lobbying material</p> <p><i>Secondary texts:</i> press releases and media reports</p> <p><i>Interviews:</i> 144 interviews with interest groups, European Commission officials, MEPs, and MEP assistants/EP advisors</p> <p><i>Observation:</i> committee meetings, lobbying receptions, hearings and meetings between MEPs and interest groups</p>	
<b>Research methods</b>	<p><i>Process-tracing:</i> What were the causal mechanisms linking interest group participation with their influence?</p> <p><i>Counterfactual analysis:</i> What would have happened if some interest groups had not lobbied the EP?</p> <p><i>Attained influence:</i> To what extent are interest groups' preferences reflected in the final policy outcome?</p> <p><i>Attributed influence:</i> To what extent do interviewees perceive certain interest groups to have shaped policy outcomes?</p>	

Source: Adapted table from Betsill & Corell (2001, p. 79).

### *2.2.1 Information type*

The type of information needed in my study to answer my research question relates to the empirical application of Wilson's typology. The theoretical framework needs to be operationalized to guide the analysis of the case studies. This involves 'moving from the theoretical level to the question of relevant indicators', and linking the theoretical concepts to observational properties (Adler-Nissen, 2009, p. 141, Isaak, 1985, p. 76). This section presents the interview guide and the logic behind the questions posed. It also deals with issues of validity and reliability. The full interview guides used in interviews with interest group representatives and MEPs/EP advisors can be found in the appendices 1-2. As can be seen from appendices 1 and 2, most of the questions cover elements of the theoretical framework. I asked the same questions to interest group representatives and key MEPs/EP advisors in all of my case studies. This is important in order to make the cases comparable. Without asking the same questions, the results cannot be satisfactory compared and systematically analysed.

As can be seen from the interview guides in appendices 1 and 2, each main question is followed by a number of sub-questions. The purpose of the sub-questions is to give the interviewees the opportunity to elaborate upon their answers. While conducting the interviews, I would also formulate follow-up questions or follow-up comments on the fly to validate and dig deeper into the interviewees' answers. The follow-up questions were not prepared beforehand but formulated on the basis of the responses to the interviewee's answers. They were aimed at making the interview more like a conversation rather than being a barrage of questions. The interviews can be characterised by something which seems like a conversation, but really is a quasi-monologue on the part of the politicians prompted by my comments (Dexter, 1970:56). As Berry (2002, p. 679) says about interview skills: 'the best interviewer is not one who writes the best question. Rather excellent interviewers are excellent conversationalists. They make interviews seem like a good conversation among old friends'. I attempted to make the interview situation more relaxed and conversational by

allowing the interviewees to wander, but corralling them back if they went off on a tangent. All of the interviews were carried out in a semi-structured way, so that similar interviewees were subjected to the same interview questions. Some questions were open in order to encourage the interviewees to focus on what they found relevant and important rather than being dictated by my own preconceived ideas about what was important (Berry, 2002, p. 681).

In order to ask questions that shed light on Wilson's expectation to different policy types, it is necessary to gather information about interest groups and MEPs' preferences, interest groups' lobbying activities, and their ability to shape the policy outcomes of the four cases studied. The first type of question relates to interest groups' and MEPs' position on the dossier in question. *Prima facie*, it seems straight forward to establish interest groups' positions on the four dossiers studied. Most of the interviewed interest groups upload position papers on their website, where they spell out in detail how they would like the EP to amend the European Commission's proposal of relevance to them. Establishing their preferences should, therefore, appear to be straightforward. However, when interest groups were asked about their preferences during the interviews, they often stated a position which was less ambitious to the one stated in their position papers. This indicates that they see themselves as part of a bargaining game, where it is strategic to present a more extreme position to MEPs in order to push the outcome in a certain direction. It is important to note that interest groups' official position cannot necessarily be taken at face value. There is often a discrepancy between interest groups' public demands and what they are privately hoping to attain. NGOs are notorious for taking up extreme positions to pressurise decision-makers. Moreover, interest groups may change their position throughout the policy process to adapt to a new situation or for strategic reasons. As a representative from a European employers' federation expressed during interview, 'one thing is what we fight for in the first reading, another thing what we do in the second reading. To be honest with you, we take quite an extreme position now, but we will soften up later'.<sup>18</sup> This highlights the

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<sup>18</sup> Interview, UEAPME, 8 April 2010

importance of distinguishing between an interest group's daydreams (often reflected in their position papers), nightmares (worst case scenario), and bottom-line position (often revealed during interviews). Decision-makers (politicians and bureaucrats) may also exaggerate their demands. For instance, the European Commission might toughen up its white paper to have something to give away later in the process. Similarly, MEPs may take up a position which is slightly more extreme to their own position in order to push a decision in a certain direction.

The second type of question in the interview guides refers to interest groups' lobbying strategies and activities during the policy making process. Although my study focuses mainly on the EP as a lobbying venue, my questions were not only limited to the EP. It is important to shed light on the entire EU decision-making process to understand interest groups' lobbying strategies towards the EP. For instance, an interest group might not lobby MEPs if they have already managed to get their views included in the European Commission's proposals. Furthermore, the intricacies of lobbying the EP can only be understood by comparing it with the other EU institutions. Questions about interest groups' lobbying activities during the EP's policy process centred on the type of information put forward to MEPs, the tactics they used and the timing of lobbying, as well as who they contacted (see appendix 1). In all interviews with interest groups, I showed them a list of all committee members from the responsible and opinion giving committees and asked them to indicate whom they had contacted/been contacted by, and the nature of the contact (such as email correspondence, face-to-face meeting, one way email contact). I also asked interest groups about their cooperation with other interest groups, and the working division between them and their European federation. MEP and MEP assistants/EP policy advisors were asked a range of questions about what interest groups they found to be particularly active in lobbying the EP on the dossier in question, and what role interest group information played in their work on the dossier. I also showed MEPs and EP advisors a list of interest groups, which I had identified to be active on the issue at hand, and asked them to indicate with whom they had been in contact and if any groups were missing



from my list. This also gave me the opportunity to ensure that I had interviewed all the relevant stakeholders.

The last type of interview question concerned the influence of interest groups on the policy outcome. This entailed asking interest groups about their perceived influence on the dossier in question, as well as their perceived influence on others. Similarly key MEPs were asked why they decided to put forward specific amendments and if their draft report would possibly have been any different had they not had the opportunity to consult affected interest groups (see appendix 2). In some of my case studies, it was possible to detect a change of heart among key MEPs. In these cases, I asked MEPs why they changed their mind on certain aspects of the European Commission's proposal. I also asked them to what extent the information provided by interest groups pointed to new angles in the Commission's proposal, of which they had been previously unaware. It is important to distinguish between influence exerted during the policy process and influence on the final outcome (as adopted by plenary). Interest group influence may be observed at different stages of the EP's policy process. They may have been successful at launching a debate about a particular issue during the committee debates, or managed to convince MEPs to put forward their favoured amendments. Due to the high number of veto points in the EP, amendments included in early committee draft reports may be voted down or lost at a later stage.

When analysing material gained from interviews, a number of questions regarding validity are important to pose. For example, how do we know if the interviewees are telling the truth? Can we tell what the interviewees really believe by counting on a few questions put to them in the interviews? The answer is 'no', since this assumes that the interviewees possess some sort of underlying attitude to which they are firmly committed. It also assumes that if interviewers use good enough interview techniques, we can make the interviewees spill the beans and reveal their real attitude (Dexter, 1970: 119). However, this is rarely the case as interviewees might have conflicting opinions and be inconsistent with their answers. When analysing interviews, we have to acknowledge that the interview answers are not objective, but rather

demonstrate the interviewees' own picture of the world as they see it. Even descriptive answers about how interest groups go about contacting MEPs represent the unique perceptions of the interviewees. The interviewees' answers may well be coloured by desires to represent themselves in a good light. In between the request for an interview and the actual interview, interviewees will have thought about what to say either consciously or subconsciously (Berry, 2002, p. 680). As an interviewer, it is important to bear in mind that it is not the responsibility of the interviewees to be objective and provide us with the truth (if a truth is believed to exist). Just like researchers, interviewees have a purpose in the interview and something they want to say. They may want to talk about their work, justify their actions, and present themselves and their organisation in a good light. Interviews might also be affected by extraneous factors, such as people talking in the background or the phone ringing. Under other circumstances, the information given might have been different as interviews are highly situational. Given this, there are two questions, which are important to have in the back of our minds when analysing the responses: What light do the interview answers throw on the subjective attitudes of the interviewee? And, how much do the interviewees' answers correspond with 'objective reality'? As an interviewer it is important to know in what respect the interviewee's answers must be taken as a reflection of their own opinion or perception, or as a reasonable description of how things actually are. Put in another way, the reliability and validity of the interviews have to be determined in order to evaluate their usefulness.

Validity and reliability are rooted in a positivist tradition, and to an extent, positivism can be viewed as a theory of validity and reliability (Kuzel, 1999, pp. 33-45). Validity determines whether the means of measurement are accurate and whether the research truly measures that which it was intended to measure. Reliability indicates whether the result is replicable, i.e. that the same conclusions could be found if the research was repeated. It is debatable whether the concepts of validity and reliability can be understood and grasped in the same way for both quantitative and qualitative research. In quantitative research of a positivist nature, it is often assumed that an external reality can be

objectively observed and measured. Validity and reliability can be calculated by applying statistical tools and thereby calculating how close the research results are to the 'real' world (Mose et al, 2002). In qualitative research, we cannot apply statistical tools to measure and estimate whether interview answers are true or false with respect to an assumed external reality. Therefore, from a qualitative perspective, we need to view differently the concepts of validity and reliability (Kirk & Miller, 1986, p.19).

How, then, can we determine validity and reliability? Qualitative scholars have created alternative validity criteria which can be used to examine how well methods explore research aims. Lincoln and Guba (1985), for instance, assess validity through credibility. Credibility is assessed on prolonged engagement with the research field, triangulation, and reflexivity (Seale, 2004, p. 77). I have engaged with these criteria through the use of process-tracing and triangulation of the information gathered through interviews, written material, and observations to present a credible account of interest group influence (Seale:1999). Reflexivity was an essential component of this process. Reflexivity means thinking critically about the research experience and process, and considering influences on the research process which affects how well I have been able to gather information. Researchers are not neutral data collectors, and interviewees are not inanimate objects as they may try to set the agenda themselves. Interviews rest on social relationships; they are shaped by interpersonal dynamics, and the interviewer and interviewees co-produce social encounters. This requires researchers to be reflective about their appearance in the interview situation and the information gathered from the interviews. During and after each interview, I paid close attention to how interviewees reacted to me (e.g. openness, closeness, suspicion, or trust) and to the dynamic between me and the interviewee (e.g. relaxed/tense, friendly/unfriendly, or rushed/not rushed). After the interview, I also considered to what extent the interview was generating reliable and valid information, if there was any internal contraction in the interviewees' answers or behaviour, if I had understood what the interviewee had told me, and if I was missing any information. I would always email the interviewees after the interview to thank

them for their time and help, and ask any questions that I might have missed out on in the interview.

I assessed the validity of my interviews by paying close attention to the consistency of interviewees' answers. It is important to be aware that respondents do not necessarily possess a consistent set of opinions as they might have conflicting opinions and be inconsistent with their answers; this does not necessarily invalidate the interviewee's responses (Dexter, 1970: 120-122). Furthermore, whenever possible, the information provided by interviewees was cross-checked using additional sources, such as the information provided by others and written material (for example newspaper articles, reports, and amendments). If the majority of participants interviewed for one case all painted the same picture of the role and influence of lobbying, it seems reasonable to believe that it is a reflection of what actually happened. My use of process-tracing and different sub-approaches to study interest group influence – counter-factual analysis, attained and perceived influence – made it possible to triangulate the findings from the different sources.

Determining the reliability of qualitative interview is a little trickier because it is not possible to achieve the exact same interview answers if the interviews were repeated either by me or by another researcher. Interviews are not neutral tools of information gathering but highly situational and influenced by the relationship and atmosphere created between the interviewer and interviewee. An interview situation must be seen as just one of many situations in which the respondent may tell their story in different ways. However, by conducting each interview in the same way and by making sure that the questions are neutral and non-leading, the reliability of the interviews increases.

### *2.2.2 Information source*

Any reliable assessment of interest group influence must rely on a variety of sources. As indicated in Table 2.2, I rely on four main information sources. Firstly, I use primary texts, which include interest groups' position papers and letters/emails sent to MEPs as well as EU official documents, such as European

Commission proposals and impact assessments, Council minutes, EP reports and opinions, and various internal documents. The EU's official documents are particularly useful for tracing back the legislative processes and identifying the changes introduced to the Commission's proposal during the different stages of the EP's decision-making procedure. Interest groups' position papers and amendments sent to MEPs were important in order to identify interest groups' preferences on specific aspects of a dossier, as well as their preference attainment. Most lobbying position papers are available on interest groups' websites, whereas amendments and emails sent to MEPs were obtained during interviews. The second category of information includes secondary texts, such as newspaper articles and press releases. Press releases include those released by interest groups and EU institutions. Interest groups' press releases say something important about interest groups' reaction to changes of a proposal during the decision-making process and form part of their 'outside' strategies to lobby the EP. Newspaper articles are important to understand the frames used to understand issues as well as the salience of issues.

The third informational source includes my own observations of committee meetings, lobbying receptions, hearings, and meetings between MEPs and interest groups. During my fieldwork in Brussels, I attended all the EP committee meetings in which my four case studies were debated and attended numerous lobbying receptions and events organised by interest groups. During my fieldwork in Brussels, I had a visitor pass to the EP, which allowed me to enter the EP's premises whenever needed. I spent many days attending and observing committee meetings, political group meetings, interest group hearings, and lobbying receptions. The committee and political group meetings gave me a valuable insight into the debates and controversies surrounding each of my four case studies, as well as the importance MEPs attached to different aspects of the dossiers. The lobbying receptions and events gave me first-hand experience with how interest groups seek to nurture their long-term contacts with MEPs. These events raise awareness about interest groups' existence and position on specific policies, which are useful when lobbying on specific dossiers. One such example was a lobbying event organised

by the Warner Brothers, which I attended in November 2010. The Warner Brothers invited MEPs along to a food and wine reception followed by a pre-screening of the latest Harry Potter movie. Before the movie started, a representative of Warner Brothers briefly explained their position on an on-going directive on copyright rules. While MEPs and assistants present at the event were aware that they were being lobbied, they would most likely remember to consult this lobby group next time the EP deals with copyright rules. Raising awareness and visibility is often the purpose behind interest groups giving MEPs small gifts, such as free cinema tickets and dinner. I did not only attend lobbying events organised by the interest groups included in my study, but also those organised by other groups to see how MEPs/EP policy advisors generally interact with interest groups on a daily basis. Lobbying receptions are very common in Brussels, and interest groups frequently invite MEPs and their assistants to events in one of the numerous bars on Place Luxembourg, the square in front of the EP in Brussels. I attended many of these events and spoke informally to both the organisers on what they hoped to get out of these events and with the participants on why they attended the events. I became aware of these events through people I knew working in the EP and flyers hanging in the EP advertising these receptions. When seeking to gain access to these lobbying receptions, I would explain to the organisers that I was doing research on interest groups' contact patterns with MEPs and their staff, and I was therefore interested in attending their event.

The last category of information includes interviews with interest groups, European Commission officials, MEPs, and MEP assistants/EP advisors. Table 2.3 shows the number of interviews conducted for each case study; 144 in-depth interviews were conducted between April 2009 and October 2011. During this period I was based in Brussels as a visiting researcher at the Centre for European Policy Studies (CEPS). Appendix 4 provides a complete list of all the interviewees in anonymised form. The majority of the general interviews were conducted at the beginning of my PhD as a pilot study used as a broad exploration of my topic. Two of the general interviews included interviews with members of Jerzy Buzek's cabinet (President of the EP from 2009 to 2011) on

the EP's revision of its lobbying rules following the cash for laws lobbying scandal in March 2011.

Table 2.3: Number of interviews conducted

	Vans regulation	Food labelling	Working time	Maternity leave	General interviews
MEPs	4	1	4	6	2
EP policy advisors/ Assistants	6	9	18	19	4
Business groups	10	11	6	11	4
Labour unions	-	-	2	4	
NGOs	2	5	-	6	1
European Commission officials	2	-	1	2	2
Permanent representations	2	-	-	1	-
Total	25	26	31	49	13

All interviews were recorded with the permission of the interviewee and then transcribed in full. This painstaking work has its benefits as it makes it easier to compare answers to different questions. A tape recorder gives a complete record of the interview; however, it might also inhibit the interviewees from being as frank as they would have been if the conversation was not recorded. At the beginning of each interview, I would tell the interviewee that they could tell me to switch off the tape recorder at any time during the interview. Towards the end of each interview, I turned off the tape-recorder and asked the interviewee if I should have asked them any questions that I did not ask them. This gave the interviewee the possibility to talk about aspects of the case they might have felt uncomfortable talking about while being recorded. Most interviewee did not seem to be bothered by being recorded. Furthermore, the interviewees were given the possibility to read the interview transcript and comment once I had transcribed it. When sending transcriptions to interviewees, I would always write that if they had any comments, I would appreciate that they get back to me before a specified date. Most interviewees did not object to any of the

transcriptions. Instead they were helpful in elaborating their answers further and in adding certain aspects, which they felt had been left out.

Each interview usually lasted one and a half hours with the shortest interview lasting forty minutes and the longest five hours. As indicated by the small number of MEPs interviewed, it was extremely difficult to get interviews with MEPs, but MEP assistants and EP policy advisors were usually open to being interviewed anonymously. The interviews with the assistants and the EP officials were generally more useful because they proved to be more open to talking about lobbying than MEPs. In many ways, MEP assistants and EP policy advisors act as the 'de facto' legislators of the EP because they often write the reports and amendments on behalf of their MEPs. As one assistant explained to me in interview:

Usually my MEP leaves it to me to write the report and I negotiate with the assistants from the other political groups to find a compromise...later in the process, you try not to make your MEP too interested in the dossier as he may destroy the deal that has been sealed if he suddenly starts paying attention.<sup>19</sup>

MEP assistants and policy advisors are as much, and often more, involved in the scrutiny of a proposal as key MEPs. Often MEP assistants hold meetings with interest groups on behalf of their MEP and draft amendments. This means that the low number of MEPs interviewed for my study is not likely to have influenced my conclusions as I had access to assistants and policy advisors of key MEPs. Moreover, politicians are not always the most useful informants because they are experts in holding back information about their intentions and perceptions (Neumann, 2005). As the American philosopher Will Durant once remarked, 'To say nothing, especially when speaking, is half the art of diplomacy' (Adler-Nissen, 2009, p. 151). This art was unquestionably also practiced during my interviews with MEPs. For instance, when I asked the question, 'what interest groups have you consulted on this dossier', they would usually reply that they talk to everyone who wants a meeting with them, when in

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<sup>19</sup> Interview, MEP assistant, 15 April 2010



fact many interest group representatives had told me that the particular MEP had refused to talk with them. However, when talking about their colleagues and lobbying in general, they would be much more open. Politicians are experienced interviewees and often careful about how they answer questions. Their answers may reflect their desire to appear accountable to the public (Dexter, 1970). Many of the interviewed MEPs gave measured answers, and no particularly controversial material was gained from these interviews. Before turning to my methodological approach, I want to elaborate on how I identified the universe of relevant interviewees in my four case study arenas to which the next subsection turns.

#### *2.2.2.1 Identifying the universe of interviewees*

All dossiers go through an arena full of critical stakeholders (interest groups and decision-makers). An arena is not a physical place, but a listing of all stakeholders and their interests at stake on a specific dossier. Just like a professional lobbyist, I need to know who to contact. The best way to go about this depends on the specific dossier and the specific arena. Van Schendelen's (2010) advice to lobby groups on how to scan an arena and prudently prepare for the EU lobbying battlefield is highly relevant for my preparatory homework of identifying the stakeholders involved and the issues at stake in my four case studies. Inspired by Van Schendelen's book *More Machiavelli in Brussels - The Art of Lobbying the EU* (2010), I divided each of the arenas of my four case studies into three components: stakeholders, issues, and arena boundaries (Van Schendelen, 2010, pp. 158-179).

After having studied the changes the EP introduced to the European Commission's proposals (i.e. changes introduced in the rapporteur's first draft report, the final committee report and the plenary report at both first and second readings), I drew up a long list of all the possible stakeholders involved in each of my four case studies. This inventory of stakeholders included all the interest groups that had given contributions to the European Commission's

consultations, interest groups I had found to be active during the policy-process, the European Commission's chef de dossier, key MEPs, and assistants and policy advisors to key MEPs. For each of my four case studies I came up with an enormous list of potentially relevant interviewees. Thereafter, the identified stakeholders were assessed in terms of their relevance and importance. I define a relevant stakeholder as someone who is actively involved on a dossier. The stakeholders were placed along two continua: one ranging from *weak to strong* influence potentials, another from *passive to active* (Mitchell, Agle, & Wood, 1997). The first continuum - weak to strong influence potentials - covers my theoretical expectations about the influence potentials of different interest groups, and refers to an interest group's resources (expertise and staff size) and type of interest group (labour union, NGO, firm, European federation etc.). The second continuum covers the interest groups, MEPs, and EP policy advisors/assistants active in the policy process of my four case studies. It was not an easy task to identify which interest groups to contact as the number of active interest groups is countless, including European federations, national associations, European NGOs, national NGOs, public affairs consultancies, companies, and institutional lobbyists (member states and their permanent representations). The European Commission's list of consulted stakeholders amounted to around 60 interest groups per dossier included in the Commission's impact assessment. In order to get an overview of the most affected and active groups, I started by interviewing the European Commission's chef de dossier. This also proved extremely helpful for understanding the controversies surrounding each of my case studies at its early stages (between the European Commission's green paper and white paper), and to see how the views of different interest groups had been incorporated into the European Commission's formal proposal.

I also phoned up the stakeholders listed on the European Commission's consultation list to ask them how active they had been on the file in question and to find out how relevant they were to interview for my research. It quickly turned out that only around 20 key interest groups remained active on each of the dossiers once the proposal had been formally put forward to the EP. Many

interest groups limited their lobbying activity to submitting a position paper in response to the European Commission's online consultation. This raises the question that if interest groups see the European Commission as the main lobbying addressee, does this relegate the EP to a lobbying sideshow? When asked why they had not lobbied the EP, interest group representatives usually gave two answers. Firstly, that they lacked the necessary resources to lobby actively, and/or that the specific issue was not important enough for them to invest time and money to continue the lobbying. They all found that it took fewer resources to send a short position paper to the European Commission than to actively engage in lobbying the EP. When the European Commission publishes its white papers, it is usually more tightly focused on a few issues than its initial green papers, where it is trying out various ideas and seeking inspiration from stakeholders. This means that during a dossier's lifetime, many stakeholders become part of a larger coalition and most issues part of a smaller package. Active interest groups' preferences were identified based on their position papers and specific amendments sent to MEPs, as well as their position submitted during the European Commission's public consultation. Identifying the relevant stakeholders in the EP proved to be a much easier task. As seen in Chapter 1, only a few MEPs are active on a dossier due to the workload in the EP and the working division within the EP's political groups. My list included key MEPs (rapporteurs, shadow rapporteurs, coordinators and particularly active MEPs), together with their assistants and the EP officials working on the dossier in question.

All the relevant stakeholders identified were divided into stakeholders of primary and secondary importance. The most relevant are the primary stakeholders, which are identified as both highly active and potentially highly influential. The list of stakeholders of secondary importance are not discarded, but saved on a memory list in case they join the primary group later in the legislative process. An interest group may seem passive but may actually be like a seemingly sleeping cat on a roof watching birds. Vice versa, the noisiest interest groups may be like barking dogs that do not bite (Van Schendelen, 2010, p. 165). An interest group may be passive at the EP's committee stage, and

become active prior to the plenary, or be passive in the first reading, but active in the second reading. It is important to be aware that the composition of an arena is not static, like still photography, but often takes unexpected twists and turns. A researcher, therefore, needs to ‘film’ an arena constantly and keep an eye on the ‘boundary traffic’ to update the stakeholder list. Just as the arena changes over time, so does its composition. New issues can be introduced, and new stakeholders can be attracted. A dossier that attracts increased media attention is likely to attract new stakeholders and issues. Interest groups can also leave an arena, for example, because their attention shifts to another dossier (Van Schendelen, 2010). The remainder of this chapter zooms in on the methodological approach used in the thesis.

### *2.2.3 Methodological approach*

Wilson’s politics of policy typology is particularly useful for bringing to light the causal mechanism that links the independent variable (policy type) with the dependent variable (interest group influence). The working assumption is that cases falling within the same category have similar outcomes. It is, however, important to be sensitive to the presence of equifinality, which means that even though the outcome of different cases belonging to the same category might be the same, the process to the outcome may differ significantly. Using process-tracing, researchers can analyse how cases that belong to the same category arrived at the same outcome through different paths (George & Bennett, 2004, pp. 161-162). If the research findings show that cases assigned theoretically to the same category have different empirical outcomes, the hypothesised causal relationship is called into question. Additional variables may then need to be taken into account in order to advance the theory, or specify under what conditions the theory holds up. I use process-tracing as my primary method to examine interest group influence combined with the (sub-)methods of counterfactual analysis, attained influence, and attributed influence. Process-tracing can be seen as the overall methodological approach that includes the other three (sub-) approaches.

The purpose of process tracing is to ‘assess the causality by recording each element of the causal chain’ (Zurn, 1998, p. 640), and uncovering the various factors leading to a specific policy outcome. Gerring (2007) has defined the method of process-tracing as getting ‘inside the box’ by meticulously examining the mechanisms and events that shape policy outcomes. Process-tracing allows the researcher to ‘peer into the box of causality to the intermediate causes lying between some cause and its purported effect’ (Gerring, 2004, p. 348). Similarly, Roberts (1996, p. 66) describes process-tracing as ‘the minute tracing of the explanatory narrative to a point where the events to be explained are microscopic and the covering laws correspondingly more certain’. Methodologically, I draw on what Hall (2003, p. 394) calls systematic process analysis, where ‘the point is to see if the multiple sources and statements of the actors of each stage of the causal process are constituent with the image of the world implied by each theory’. The assessment of interest groups’ influence involved a close examination of the changes MEPs introduced to the European Commission’s proposal, and investigating how these changes came about. This detective work was done by scrutinising active interest groups’ preferences closely, their influence attempts, MEPs/EP policy advisors’ response/non-response to these influence attempts, interest groups’ preference attainment, and interviewees’ perception of interest group influence. The base point for the process-tracing (t<sub>0</sub>) was the European Commission’s formal proposal and the end point was the final report (t<sub>1</sub>) adopted by the EP at either first or second reading, depending on the length of the process.

The in-depth gestalt-oriented nature of process-tracing highlights the importance of paying close attention to the process preceding the policy outcomes. This involves asking questions about what issues were discussed, and what terminology (frames) were used to discuss the issue in question. Disregarding the policy process prior to the policy outcome may result in the risk of overlooking examples of interest group influence. Interest groups may have been successful in raising a debate about an issue or managing to get MEPs to pay closer attention to an issue than they would otherwise have done. Interest groups may also have influenced the jargon used during policy debates in the EP

committees and plenary. As Bettelli et al (1997) show, green NGOs have been particularly successful at inventing the term 'hot air' in Kyoto Protocol negotiations.

Process-tracing is not just a detailed description of the mechanism and events shaping policy outcomes, but it also allows the researcher to analyse these phenomena with reference to external criteria. In my case, process-tracing enables me to examine if, and under what conditions, policy shapes politics in the EP. Since process-tracing takes a narrative shape, the number of falsification points are maximised and spurious correlations between events can more easily be uncovered (Young, 2010, p. 58). This makes it possible to examine to what extent interest groups' preference attainment was due to their lobbying efforts or simply pure luck. The main strength of process-tracing is that it provides the researcher with detailed knowledge of the different factors leading to a policy outcome. Process-tracing provides high internal validity and makes it possible to test rival theories and advance existing theory. The method is particularly useful for generating and examining causal mechanisms. The close attention to the process leading to the outcome reduces the risk of inferential errors that arise from studies that only look at the extent to which interest groups have their preferences reflected in the final policy outcome.

Despite its advantages, process-tracing also suffers from some limitations. Firstly, process-tracing is extremely demanding empirically given the number of causal steps in a chain that require empirical examination, together with the plethora of actors and interactions involved. These heavy empirical demands may make it difficult to cover all the steps in a causal chain from interest group activities to policy outcomes. This may result in an underestimation of influence if the method is used too strictly as 'the absence of proof may be taken as proof of absence' (Dür, 2008, p. 563). It can be tempting for a researcher to conclude that no influence was exerted if a link in the causal chain cannot be identified when, in fact, the researcher is confronted with insufficient sources to establish a link. For example, lobbying that is hidden, with no detectable lobbying activities, may lead a researcher to conclude that no influence has been exerted. The second weakness of process-tracing is that the

heavy empirical demands involved in the method makes it most suitable for small N-studies. This raises the question of generalisability, i.e. to what extent it is possible to generalise the case study findings beyond the cases studied. Case studies may present the problem of generalisability because the limited number of cases studied may render the generalisation of findings unreliable. However, since the aim of my research is to understand under what conditions policy shapes politics in the EP, case studies can be used to uncover or advance a theory about a particular causal mechanism (Lijphart, 1971: 691). Case studies are particularly well-suited to deal with complexity because they are ideally situated to explore the sequence of events bringing about a certain outcome rather than only focusing the research lens on the outcome (Peters, 1998, p. 141). Case studies are useful for the development of contingent generalisations that can explain well-defined cases. However, this often comes at the expense of the parsimony and wide applicability of research findings (George & Bennett, 2004, p. 31). This does not mean that one cannot say anything beyond the borders of a small N-study. Generalisation can be made possible if selecting cases that represent least-likely or most-likely cases, and cases that are 'especially representative of the phenomenon under study or choosing "crucial" cases' (Gerring, 2004, p. 347). The detailed knowledge gained about case studies when using process-tracing makes it possible for the researcher to identify underlining causal mechanisms at work, which is likely to be applicable to a vast number of cases with similar characteristics. My cases constitute most-likely cases of Wilson's different politics categories.

Counterfactual analysis constitutes my second methodological approach to assess interest group influence. Counterfactual analysis is an imaginary construct that emphasises the importance of imagining what might have happened if one or more variables were removed from the chain of events (Biersteker, 1995, p. 318). This involves asking interviewees how they think the policy process and outcome would have looked in the absence of lobbying. Although such an imaginative thought construct can only be based on guesswork - because we do not have the alternative scenario of no lobbying to compare with - it does highlight interviewees' perception of the impact of lobbying.

Counterfactual analysis is similar to the method of attributed influence because it relies on interviewees' perceptions of events or non-events.

The third and fourth approaches used in the thesis to assess interest group influence in the EP are that of interest groups' attained and perceived influence. Attained influence involves analysing to what extent different interest groups have their preferences reflected in the final policy outcome. This approach has the advantage of capturing all aspects of influence, and also those that are not easily observable, such as lobbying taking place behind closed doors or structural power at work (Klüver, 2013, p. 61). However, the approach also has its weaknesses. Goal attainment does not necessarily indicate causation between an interest group's lobbying activity and the policy outcome because preference realisation may be due to sheer luck rather than influence (Barry, 1980a, 1980b). Furthermore, preference attainment neither takes into account 'piggy-backing' on the influence of other interest groups nor the event of counter-lobbying. Even if an interest group does not have its views reflected in the policy outcome, it may have been successful in avoiding an even worse outcome by engaging in counter-lobbying (Austen-Smith & Wright, 1994). In order to dig deeper into the process preceding the policy outcome, I asked interest groups to assess their own influence, as well as their perception of the influence of others. It is important to note that the answers obtained when asking interviewees to assess their own and others' influence is a reflection of perceptions rather than influence per se. Interest groups may for instance exaggerate their influence (to legitimise their activities for their members), or downplay their influence (to avoid counter-lobbying). This problem can be solved by cross-checking with assessment provided by other interviewees. Interest groups' claims of influence were strengthened by using the methods of process-tracing and counterfactual analysis, both of which allowed me to focus on the causal mechanisms linking interest groups' preferences with possible influence. However, the weaknesses of each of the four methods used were overcome when used in the combination and triangulating them against one another.



## **2.3 Conclusion**

This chapter has explained the method used in the present study. I have outlined the rationale of case selection, the operationalization of Wilson's framework and its application to the empirical world, and the utility of using process-tracing to shed light on the research question. The chapter has developed an analytical framework for analysing interest group influence, which uses multiple information types, information sources, and methodological approaches. The framework is not only confined to the EP, but can be used in other institutional settings. I contend that the assessment of interest group influence has two important dimensions: (1) interest groups need to communicate information to decision-makers; (2) decision-makers need to alter or establish their position as a response to that information. This double focus allows me to focus on the type of information transmitted by interest groups and their lobbying tactics, as well as whether or not MEPs responded by altering their behaviour. Wilson's typology is particularly helpful in this regard because it not only provides hypotheses about the policy outcome, but also the process leading to the outcome. I use the method of process-tracing to create a logical chain of evidence of interest group influence; I have gathered information on the lobbying activities of interest groups, their access to MEPs, to what extent MEPs responded to the information supplied by interest groups, and whether these responses were in line with certain interest groups' position (Betsill & Corell, 2001). These various types of evidence enable me to make qualitative judgements on the levels of interest group influence.

The combination of process-tracing and typological theory is particularly useful for uncovering the interaction effects and causal mechanism at work in my four case studies. Wilson's typology helps to deductively outline the interactions and causal mechanisms I expect to find in each of the categories in Wilson's four-fold typology. Process-tracing makes it possible to examine if the theoretical expectations hold up empirically. The method of process-tracing provides me with a rich empirical account of the different factors contributing to the policy outcomes in the four case studies. Wilson's typology offers a

conceptual map that helps to organise the empirical findings into meaningful narratives. As such it provides a theoretical lens through which the empirical findings are analysed and allowed me to peer into the box of causality. The analytical framework presented in this chapter makes it possible both study interest group activities and influence.

The next four chapters are devoted to presenting my analyses and findings of my four case studies; each chapter deals with a separate case. The chapters follow a similar structure by first introducing the European Commission's proposal and the cost/benefit profile of the proposal as specified in the Commission's impact assessment. I then present the positions and strategies of the involved interest groups. This is followed by an overview of the changes introduced to the Commission's proposal at the different stages of the EP's decision-making procedure. Lastly, I discuss the factors contributing to the policy outcomes.

### **Chapter 3: Regulating CO<sub>2</sub> Emissions for vans. Is the European Parliament Still a Defender of Environmental Interests?**

In February 2011, the EP adopted legislation to reduce carbon dioxide emissions (CO<sub>2</sub>) from light commercial vehicles (known as the vans regulation) after reaching a first reading agreement with the Council. The EP agreed to a text that watered down the European Commission's proposal by voting to lower CO<sub>2</sub> emission targets proposed for vans and by reducing penalties for non-compliance. While the majority of MEPs took the view that 'the van industry's dire economic situation and long production cycles merit more carrot and less stick' (EurActiv, 29 September 2010), environmental organisations and several MEPs criticised the EP for caving in to lobbying pressure from the automobile industry and voting against the interests of consumers, small businesses, and the environment.

The vans regulation is a typical example of entrepreneurial politics, in which the costs of tightening environmental standards are concentrated on a specific and easily identifiable group (the automobile industry), and the benefits widely distributed to society as a whole. In such a scenario, the general expectation is for opponents to have strong incentives to mobilise in order for their burdens be reduced or at least not increased, whereas those benefiting from a policy lack selective incentives necessary for overcoming typical barriers to collective action (Olson, 1965). Policy will be blocked, or watered down, by vested interests that benefit from the status quo unless a policy entrepreneur takes an active role in guiding the legislation towards fruition.

The EP is often portrayed as a policy champion for environmental groups because it generally suggests amendments with a higher level of protection than those put forward by the Council. The EP is usually seen as the 'greenest' of the EU institutions, performing an important leadership role in EU environmental policy (Lenschow, 2010; Zito, 2000, p. 4). Indeed, several scholars have referred to the EP as an environmental champion (Burns, 2005), and a defender of environmental interests (Weale et al., 2000) that is 'predestined to save the

earth' (Judge, 1992). This reputation has been earned mainly due to the activities of the EP's Environment, Public Health, and Food Safety committee (ENVI), which is responsible for drawing up reports on approximately 25 per cent of policies proposed by the European Commission under the ordinary legislative procedure (Burns & Carter, 2010). Case-study findings from studies on auto-emissions (Warleigh, 2000; Pedler, 2002; Wurzel, 2002) and tobacco control (Judge & Earnshaw, 2006) find that ENVI is particularly open to the views of diffuse interests, and has pushed for policy outcomes favourable to environmental interests. Some scholars argue that 'environmental NGOs have a natural ally in the shape of the EP, whose members are quick to take up concerns popular with their electorate' (see for instance Greenwood, 2011, p. 158).

The EP's position on the vans regulation challenges the EP's reputation as a policy champion for environmental interests because the EP did not appear to constitute a particularly sympathetic venue for the advancement of environmental interests. This chapter aims to explain why the EP accepted a text that diluted the environmental ambition of the European Commission's proposal instead of serving as a policy champion for environmental groups. The chapter is organised as follows. The following section introduces the vans regulation and its background. I then examine the various arguments used by the car industry and environmental interests. Lastly, the impact of lobbying on the EP's policy process and outcome is analysed.

### **3.1 The European Commission's proposal**

While greenhouse gas emissions have been declining in non-transport sectors, CO<sub>2</sub> emissions from transport have continued to rise. Despite significant improvements in vehicle motor technology, in particular in fuel efficiency, CO<sub>2</sub> emissions from vans have continued to rise as a result of increased demand for transport and vehicle size (ten Brink, 2010, pp. 179-181). Light commercial vehicles are mainly used by businesses, including small and medium enterprises

(SMEs), and make up 12 per cent of the EU's car fleet. Unlike many other industries - such as the electricity, steel, and chemical industries - the transport industry is not governed by the EU's emissions trading scheme. Instead, road transport is part of the EU's climate effort sharing agreement (Decision 406/2009/EC), which sets out a ten per cent reduction of emissions in 2020 compared with 2005 levels for sectors not covered by the EU's emissions trading scheme, i.e. transport, buildings, agriculture and waste (European Parliament and Council of the European Union, 2009 ).

In November 2009, the European Commission put forward a proposal to reduce the CO<sub>2</sub> emissions from vans. The need for regulating CO<sub>2</sub> emissions from both passenger cars and light commercial vehicles arose as a result of the automobile industry's failure to meet its own voluntary targets. The proposal for a vans regulation suggested that from 1 July 2013, the average specific emissions of new vans registered in the Community should not exceed 175 g CO<sub>2</sub>/km. This target was suggested to be phased in gradually from 1 January 2014 onwards, with full compliance of the new light commercial fleet from 2016. The proposal also set a long-term target of 135 g/km to be achieved from 2020 subject to confirmation of its feasibility on the basis of updated impact assessment results. The key aspects of the proposal are:

- It will apply to light commercial vehicles of category N1 (vehicles used for the carriage of goods), with a maximum weight of 2610 kg. Emission limits are set according to a utility function based on weight (mass), using a limit value curve.<sup>20</sup> Only the fleet average is regulated, so manufacturers are allowed to produce vehicles with emissions above the limit value curve as long as the manufacturer's overall fleet average of 175 g CO<sub>2</sub>/km is achieved.

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<sup>20</sup> The limit value curve indicates the fleet average to be achieved by all cars registered in the EU, which usually allows higher emission for heavier cars and vans than lighter cars and vans as long as the overall fleet average is met.

- It includes provisions to promote eco-innovations. Under this provision, up to 7 g/km can be deducted from the average of a manufacturer's specific CO<sub>2</sub> emissions for innovative technologies that reduce emissions.
- Producers that fail to comply with these limits have to pay fines that are rather low for a slight overshoot, but increase the more a manufacturer goes over the target.
- Flexibility is given to niche manufacturers: manufacturers producing up to 22,000 units per year are subject to a small volume derogation, whereby they will negotiate an individual target with the European Commission.<sup>21</sup>

The proposal mirrors many aspects of the existing car CO<sub>2</sub> regulation in terms of the applied utility parameter (weight), phase-in, a short-term and a 2020 long-term CO<sub>2</sub> reduction target, credits for eco-innovations, and super-credits (multiple counting of vehicles with particularly low emissions). Table 3.1 compares the passenger cars regulation with the vans regulation, showing both the European Commission's proposal and the final law as adopted between the EP and the Council. Given that many of the modalities were already in place, the discussion on the vans regulation focused on a limited number of issues, mainly the long-term target and the phase-in period. This meant that there was little room for manoeuvre for interest groups to change the thrust of the legislation because it had to comply with the basic principles laid out in the passenger cars legislation.

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<sup>21</sup> This derogation was not in the European Commission's early drafts but was included after intense lobbying from Jaguar Land Rover.

Table 3.1: The passenger cars and vans regulations compared

Key provisions	<i>Passenger cars</i>		<i>Vans</i>	
	<b>Commission proposal, 19 /12/2007</b>	<b>Final text, 23/04/2009</b>	<b>Commission proposal, 30/09/2009</b>	<b>Final text, 11/05/2011</b>
Utility parameter	Mass	Mass	Mass	Mass
Slope	60 %	60 %	100 %	100 %
Short-term target	130 g CO <sub>2</sub> /km by 2012 (in earlier drafts it was 120 g CO <sub>2</sub> /km)	130 g CO <sub>2</sub> /km by 2015 with phase-in from 2012-2015 (65%/75%/80%, 100%)	175 g CO <sub>2</sub> /km by 2016, with phase-in from 2014 to 2016 (75%/80%/100%)	175 g CO <sub>2</sub> /km by 2017 with phase-in from 2014 to 2017 (70%/75%/80%/100%)
Long-term aim/target	95 g CO <sub>2</sub> /km by 2020 <sup>22</sup>	95 g CO <sub>2</sub> /km by 2020	135 g CO <sub>2</sub> /km by 2020	147 g CO <sub>2</sub> /km by 2020
The excess premium	€95 per gram	€95 per gram	€120 per gram	€95 per gram
Niche derogation	None	≤30,000 <sup>23</sup>	≤22,000	≤22,000

Source: European Commission (2007, 2009), European Parliament and Council of the European Union (2009 2011b).

<sup>22</sup> The proposal included a broad aim for reducing emissions to 95g CO<sub>2</sub>/km by 2020, although this was not called a target.

<sup>23</sup> Manufacturers producing less than 30,000 units per year can apply for individual targets.

Some of the most controversial points of the passenger cars regulation – such as the applied utility parameter and the exact slant of the utility curve – were not subject to debate on the vans regulation. CO<sub>2</sub> emissions limits for cars and vans are differentiated on the basis of an objective vehicle attribute - a utility parameter - which might be defined according to vehicle mass (maximum payload), footprint (wheelbase multiplied by width), and plan area (vehicle length multiplied by width). The drawback with using weight as a utility parameter is that manufacturers may deliberately increase a model's weight to avoid significant emission reductions. This perverse incentive could result in a rise rather than a reduction in CO<sub>2</sub> emissions. Footprint utility parameters limit the risk of this perverse incentive as there is a limit to how big, as opposed to how heavy, a vehicle can be. Although several technical merits spoke for the use of footprint during the discussion on the passenger cars regulation, the practicability tilted the balance in favour of mass, and therefore mass was also used a parameter for the vans regulation (ten Brink, 2010, pp. 42-43).

During the discussions of the passenger cars regulation in 2008, the exact slant of the utility curve was a point of intense debate between car manufacturers, pitting low-emitting car-producers (Fiat, Peugeot Citroën, and Renault) against German premium brands (Mercedes and BMW). As Porsche's chief executive declared in an interview with the New York Times on 7 February 2007, '[there] is a business war in Europe. It's the French and Italians up against the Germans' (Bilefsky, 2007). The flatter the utility curve is, the more difficult achieving the target becomes for heavier vehicles. Vice versa, the steeper the curve, the less effort required. Manufacturers of larger cars wanted a slope of nearer 80 %, and those of small vehicles a slope of 20-30 % (Hormandinger, 2008). However, the slant of the utility curve was not a controversial point under the vans regulation because the van market is more homogenous than the passenger car market. Although the main thrust of the vans regulation had to comply with the passenger cars regulation, lobbying was not rendered unimportant. Even small technical adjustments may incur significant costs on industry groups. In particular, the European Commission's long-term 2020 target of 135 g CO<sub>2</sub>/km was subject to heated debate in the EP because it



imposed significant short- term costs on car manufacturers to invest in new technologies and change their production cycle to meet the target.

### *3.1.1 The cost/benefit profile of the proposal*

The European Commission's impact assessment was conducted by the British consultancy company Ricardo-AEA, which specialises in providing analysis and advice on economically sustainable solutions for environmental challenges. The report was written in cooperation with the consultancy companies TNO and CE Delft. The European Commission requested an assessment of the costs of three long-term 2020 targets for vans: 125, 150, and 175 g/km. This was assessed by estimating the potentials for downsizing and completely hybridising light commercial vehicles. The impact assessment considered the feasibility of the three CO<sub>2</sub> target levels for 2020 and the associated costs (expressed as retail price increases using 2007 as the base year). This led to the following average cost estimation of relative retail price increases of vans:

- A 2020 target of 125 g CO<sub>2</sub>/km for new vans was seen as technically feasible, assuming that light-weight constructions can be widely used. The costs for reaching this target were estimated to lead to a 20 to 30% increase in the retail price compared to 2007.
- A 2020 target of 150 g CO<sub>2</sub>/km for new vans was estimated to lead to a retail price increase between 10 and 14% compared to 2007.
- A 2020 target of 175 g CO<sub>2</sub>/km for new vans was estimated to lead to a retail price increase between 3 to 4% compared to 2007.

Retail price is inclusive of vehicle taxes but exclusive of VAT. Costs in the petrol segment of light commercial vehicles were estimated to be extremely high. The report also stated that petrol vans vehicles make up only 2% of the vans sales in Europe and, therefore, manufacturers were assumed not to make a large effort in reducing CO<sub>2</sub> emissions from their petrol vans. The high additional costs for

petrol vehicles were estimated to lead to a shift from petrol to diesel vans. Table 3.2 lists the costs and benefits mentioned in the impact assessment. The costs are mainly concentrated on car manufacturers in terms of increased production costs, although some of these costs will result in increases retail price for consumers (AEA, 2009).

Table 3.2: Cost/benefit analysis

Costs	Benefits
<ul style="list-style-type: none"> <li>• Costs imposed on car-manufacturers associated with downsizing engines, hybridisation vans, and reducing weights of vehicles</li> <li>• Costs for consumers: increased retail prices</li> </ul>	<ul style="list-style-type: none"> <li>• Prevent fragmentation of the internal market</li> <li>• Prevent a risk of regulatory gap</li> <li>• Encourages the automotive sector to invest in new technologies</li> <li>• Improves fuel efficiency of light commercial vehicles and fuel costs, and reduces energy consumption</li> </ul>

Source: AEA, 2009

As can be seen from the table, the impact assessment mentioned four benefits from setting CO<sub>2</sub> emissions standards for light commercial vehicles. Firstly, adopting EU targets for new light commercial vehicles is seen as necessary in order to prevent fragmentation in the internal market resulting from the adoption of different measures in the EU's member states. Secondly, setting CO<sub>2</sub> emission standards for new light commercial vehicles prevents the risk of a regulatory gap resulting from a certain overlap between the registrations for passenger cars and light commercial vehicles. Thirdly, the report stated that it is important to encourage the automotive sector to invest in new technologies. Lastly, regulation of CO<sub>2</sub> emissions from vans reduces energy consumption and fuel costs. In the European Commission's formal proposal, it settled on a long-term target of 135 g CO<sub>2</sub>/km. This number was decided by the College of Commissioners and was included in the impact assessment. All the interviewed

representatives of the car industry deemed the 135 g CO<sub>2</sub>/km target unrealistic and found it regrettable that this target was not included in the impact assessment. They saw the Commission's long term target as a tactical approach as 'the Commission knew it would change and proposed a target that was low to make sure that the final target was not too high, but somewhere in the middle'.<sup>24</sup> All interviewed representatives from the car industry found that the impact assessment had many mistakes and raised more questions than answers.

### **3.2 Interest groups' positions**

The vans regulation was mainly of interest to a narrow well-circumscribed sector of the society: van manufacturers. Environmental organisations were both less numerous and less active in lobbying the EP compared with the industry side. In the words of a European Commission official:

It is easy for the NGOs to advocate for a greener environment, when they do not have to bear the costs. Contrary to the passenger cars regulation, NGOs did not have much of a position on vans and have, therefore, been less active in lobbying both European Commission and Parliament.<sup>25</sup>

Only two environmental groups were active on the dossier: Greenpeace and Transport and Environment (T&E). However, the dossier was not a lobbying priority for Greenpeace, leaving it almost entirely to the T&E to lobby MEPs. T&E is the principal environmental organisation campaigning on sustainable transport at the EU level in Brussels, and is a member of the Green 10 (see chapter 1). The lobbying spectrum on the vans regulations included: car manufacturers (such as Ford, BMW, Volvo, Renault/Peugeot-Citroen, Fiat, Volkswagen, Jaguar Land Rover (JLR), and Toyota), car associations (such as the European Automobile manufacturers associations, ACEA), and a few number of environmental organisations (T&E and Greenpeace). There was

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<sup>24</sup> Interview, car manufacturer, 14 July 2011

<sup>25</sup> Interview, European Commission official, 2 March 2010

limited lobbying from member states, who mainly restricted their activity to the Council, although the rapporteur (British Conservative MEP Martin Callanan) was contacted by the British Permanent Representation to the EU on numerous occasions. Some organisations only became active after being prompted by MEPs to lobby the EP. For instance, the coordinator of the *Group of the Alliance of Liberals and Democrats for Europe* (ALDE), British MEP Chris Davies, contacted leasing companies and SMEs in support of the European Commission's proposal to encourage them to become active. Prompted by Chris Davies, the European Small Business Alliance (ESBA) sent a letter to all ENVI members two months before the ENVI vote, expressing its support for the European Commission's proposal. This illustrates that lobbying is not a 'one-way alley' because MEPs may stimulate interest groups to become active on a dossier to gain support for their position inside Parliament.

Table 3.3 shows the position of the car industry and environmental groups on key provisions of the vans regulation. As can be seen from the table, ACEA lobbied for a short-term target of 175 g CO<sub>2</sub>/km by 2016 with phase-in from 2015 to 2018, and a long-term target of 160 g CO<sub>2</sub>/km by 2020. On the contrary, T&E and Greenpeace lobbied for more ambitious climate targets – a short-term target of 160 g CO<sub>2</sub>/km by 2015 and a long-term target of 125 g CO<sub>2</sub>/km by 2020 – and claimed that the automotive industry was using the economic downturn as a green-wash to avoid cutting emissions.

Table 3.3: Positions of interest groups

<b>Key provisions</b>	<b>The car industry: ACEA</b>	<b>NGOs: T&amp;E and Greenpeace</b>
Short-term target	175 g CO <sub>2</sub> /km by 2016 with phase-in from 2015 to 2018	175 g CO <sub>2</sub> /km by 2012 160 g CO <sub>2</sub> /km by 2015
Long-term target	160 g CO <sub>2</sub> /km by 2020	125 g CO <sub>2</sub> /km by 2020
The excess premium	€95 per gram (same as for passenger cars)	No position
The possibility of pooling between passenger cars and vans	Internal division	No position
Speed limiters	Internal division	Vans should be equipped with speed limiters set at 100 km/h
Small volume derogation (JLR's position, ACEA did not take a position on it)	A derogation for manufacturers producing less than 25.000 light commercial vehicles annually	No position

*Source:* ACEA (2009, 2011); T&E, (2010a, 2010b).

T&E welcomed the European Commission's proposal, but thought the long-term target could be more ambitious and wanted to include speed limiters in the regulation. The European Commission's proposal was supported by leasing companies, and SMEs, who believed the proposed emissions target for light commercial vehicles would increase fuel efficiency and reduce the costs for small businesses using vans. However, car manufacturers did not find that the European Commission's proposal accommodated their views as they thought it disregarded the economic reality as well as the specific characteristics of the vehicle segment concerned. All the interviewed car manufacturers did not find the European Commission's proposed long-term target of 135 g CO<sub>2</sub>/g feasible

for bigger vans (the so-called class III vans<sup>26</sup>), and if adopted, they argued that these vans would be discontinued. A discontinuation of class III vans was argued to lead to a disproportionate increase in the number of smaller volume capacity vehicles (class I and II vans), which would together pollute more than if the class III vans, carrying a bigger load, were kept on the market.

Unlike the passenger cars regulation, there was no business war between car manufacturers from different countries because the van market is more homogenous than the passenger car market. This strengthened the position of the car industry as they could largely speak with one voice on key issues. There was, however, disagreement lurking beneath the surface on specific issues, such as the possibility of pooling between cars and vans (averaging between distances to targets). Some companies were in favour of the possibility of pooling between cars and vans (such as Ford), whereas companies producing only cars (such as BMW) were against because they feared they would be put at a competitive disadvantage and that it would lead to a reopening of the cars regulation. The German and French governments in the Council supported the car industry's position. On 7 October 2009, the Italian, Germany, and French government sent a non-public 'non-paper' letter<sup>27</sup> to the European Commissioner for Environment, Stavros Dimas, and the European Commissioner for Enterprise and Industry, Günter Verheugen, urging the Commission to reconsider its launch of the proposal, and take into account the production and development cycle of vans.

Based on lobbying position papers, table 3.4 presents the arguments advanced by the car-industry, as well as the counter-arguments developed by T&E. It is not uncommon for diffuse interests to produce what I label 'myth killing reports', where they point out the flaws in the arguments used by their lobbying opponents. Similarly, T&E published a report 'Vans and CO<sub>2</sub> - Analysis of automotive industry arguments' on 30 January 2010, where it critically examined the car industry's lobbying arguments and attempted to present a

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<sup>26</sup> Vans are classified into three classes according to their reference mass: class I are vans with a RM below 1305 kg, class II with a RM between 1305 and 1760 kg, and class III with a RM above 1760 kg.

<sup>27</sup> Available from the author upon request.

more balanced view (T&E, 2010b). While car manufacturers argued that it is difficult to reduce CO<sub>2</sub> emissions from vans as they fulfil a work function and already have a high level of diesel penetration, T&E counter-argued that vans could take better advantage of fuel efficiency. Without sufficient in-house expertise in the EP, however, it is difficult for MEPs and their assistants to assess which arguments are most valid.

Table 3.4: Arguments used by interest groups

	<b>Car manufacturers</b>	<b>T&amp;E</b>
<i>Does the vans market take full advantage of the fuel efficiency?</i>	Yes. The vans market is rational as fuel consumption is an important purchasing criterion for vans. Light commercial vehicles are not emotional products driven by fashion, but for the need to fulfil a work function.	No. Van manufacturers do not have to communicate CO <sub>2</sub> performance to customers, relatively inefficient vans may still remain on the market.
<i>What are the CO<sub>2</sub> savings potentials for vans?</i>	Limited. CO <sub>2</sub> saving potentials for vans are limited compared to cars as diesel engine penetration is above 90%; load volume determines aerodynamics and design of vehicle; and some technologies for cars are not applicable or have lower CO <sub>2</sub> reduction potential.	Significant. The fuel saving technologies deployed to diesel cars can be applied to vans without requiring excessive technological investment as the optimisation of engine sizing can cut fuel costs and cut emissions.
<i>What is the environmental impact of vans?</i>	Limited. Vans only represent 10 % of the vehicle fleet.	Significant. Vans emit one third more CO <sub>2</sub> per vehicle per year than cars.
<i>Is the Commission's proposal feasible given the current economic crisis?</i>	No. The production cycle for vans is much longer than for cars, and the vans industry therefore needs longer lead time and phase-in periods.	Yes. The regulation will only apply in two years' time when more normal circumstances have returned.

Source: T&E (2010a; 2010b); ACEA (2009; 2011); interviews with ten car manufacturers

Throughout the EU's decision-making process, the automotive industry lobbied hard for reducing the long-term target, the phase-in period, and the application date. They pleaded the EU institutions not to introduce new costly regulation during the financial crisis, and questioned the need to regulate CO<sub>2</sub> emissions of vans right from the beginning. The negotiations on the vans regulation took place in a very different political and economic context compared with the passenger cars regulation. The passenger cars regulation was part of the EU's energy and climate change package<sup>28</sup> adopted in December 2008 to agree on an ambitious 2020 EU emissions reduction target prior to the United Nation's conference on climate change in 2009. Without the 15<sup>th</sup> meeting of the Conference of the Parties (COP15) - the highest body of the United Nation's Framework Convention on Climate Change - in the horizon and the media attention of the EU's energy and climate package, the vans regulation did not gain the same momentum and media coverage as the passenger cars regulation. Furthermore, the economic crisis played a greater role for the discussions on the vans regulation because the automotive industry was experiencing drops in sales. The economic crisis did not have the same resonance during the negotiations of the passenger cars regulation as the crisis was not there to the same extent.

All the interviewed car manufacturers felt that the European Commission had already made up its mind before conducting stakeholder meetings.<sup>29</sup> The car industry found it particularly problematic that the vans regulation – which is in theory both an industry and an environmental issue – was only led by Directorate-General (DG) for Environment and not jointly together with DG for Enterprise. In the words of a representative from Jaguar Land Rover (JLR), 'the

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<sup>28</sup> The EU's energy and climate change package also included proposals for: revising the EU's emission trading system for the period 2012-2020; reducing national greenhouse gas emissions for the non-trading sector; a legal framework for carbon capture and storage, and a revision of the renewable energy directive.

<sup>29</sup> Two stakeholder meetings were held during the drafting of the proposal on 2 September 2008 and 9 March 2009. The following stakeholders were present: ACEA, JAMA (Japanese Auto Industry), KAMA (Korean auto industry), FIA (Federation Internationale de l'Automobile), JLR, SMMT (UK Society of Motor Manufacturers and Traders), the European Shippers Council, T&E, a German environmental NGO, officials from the Dutch Ministry of Environment, and the British Department for Transport were present (European Commission, 2008b).



problem was that there was no-one to defend the industry as DG for Environment treated the vans regulation as a pure environmental issue”.<sup>30</sup> Furthermore, the European Commission’s impact assessment was thought to be weak and incomplete, suffering from inadequate assumptions and data. Many car manufacturers depicted DG for Environment and DG for Climate Action as ‘confrontational’, ‘evangelical’, and on a ‘moralistic crusade’. As one car manufacturer expressed it:

They are getting greener and greener. I think many of them felt that they didn’t get what they wanted on passenger cars, and therefore went for a bit more on the vans regulation [...] sometimes it would be nice if the European Commission would put forward more reasonable proposals so we don’t have to play heavy and go the top of the European Commission.<sup>31</sup>

One niche car manufacturer, JLR, had to play hardball and lobby at the College of European Commissioners intensively to secure its interests before the European Commission’s proposal was put forward to the EP and the Council. Although JLR secured a derogation for small volume manufacturers in earlier drafts of the vans regulation – in which JLR would negotiate an individual CO<sub>2</sub> reduction target with the European Commission – the Environment European Commissioner, Dimas, had removed the small volume derogation in his paper sent into inter-service consultation. This meant that JLR had to spend the whole of August 2009 ‘whizzing around the heads of cabinets to get the other DGs to see Dimas’ error’.<sup>32</sup> JLR’s sales amounts to less than one per cent of total EU sales and primarily include the Defender – a heavy workhorse vehicle designed to be operable in all duty cycles regardless of terrain and resistant to damage. Owing to the Defenders very nature, JLR finds it difficult to make the Defender more aerodynamic and fuel efficient. Therefore, JLR urged the European Commission to insert a small volume derogation with a vehicle volume cap of 25.000. Due to intense lobbying from JLR, the College of European

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<sup>30</sup> Interview, car industry, Jaguar Land Rover, July 2011

<sup>31</sup> Interview, Jaguar Land Rover, 11 July 2011

<sup>32</sup> Interview, Jaguar Land Rover, 11 July 2011

Commissioners included the small volume derogation in the proposal only a few days before the proposal was formally published.

### **3.3 The lobbying strategies in the EP**

Although the car industry was both more numerous and active in lobbying the EP than environmental interests, they took up similar lobbying strategies: target key MEPs, furnish your legislative allies with facts and arguments, and seek to win over undecided MEPs. However, the picture is not as crude as depicted by the American signalling literature, where the general consensus is for interest groups to primarily lobby their legislative allies, occasionally engage with fence-sitters, but only rarely approach their opponents (see, for instance, Baumgartner & Leech, 1996; Hojnacki & Kimball, 1998; Kollman, 1997). In the EP, this distinction is less clear as the formal constraints are such that interest groups often lobby their opponents (Marshall, 2010). The key is to target those MEPs, who are in charge of the dossier: rapporteur and shadow rapporteurs. However, most interviewees find that lobbying clear opponents is inefficient and often a waste of time; legislative allies need to be furnished with the necessary facts and arguments to be able to convince their colleagues, and undecided MEPs are important to swing a vote in the preferred direction. As one car manufacturer explained:

You shouldn't try to over-lobby your clear opponents because you are just going to irritate them and wind them up. You need to make sure that your friends - in quotes because there is no cosy relationship like that - have the facts at their fingertips; that you educate them a little bit on what the key issues are. In the final analyses, when you are lobbying, it comes down to the fence-sitters because they will swing the group position one way or the other. It's a bit crude to say that you have friends and foes, but the usual suspects are 'the people in middle.'<sup>33</sup>

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<sup>33</sup> Interview, car manufacturer, 18 July 2011

Crucial to convincing MEPs of one's position is to 'find the right way to open a person's mind' – as one interviewee explained – and frame an issue differently when talking to a conservative, liberal or socialist MEP. When approaching an MEP from the S&D group, the car industry would often try to focus on the social aspects of the vans regulation, such as what impact the dossier would have on jobs and SMEs. The German Association of the Automotive Industry, VDA (Verband der Automobilindustrie), would, for instance, bring along a member of the Betriebsrat<sup>34</sup> (German Work's Council) from one of their member companies when lobbying S&D MEPs to show that political decisions in Brussels also affect the rights of employees. The industry associations were also highly aware of giving an issue a national angle when speaking to MEPs of various nationalities, and try to bring along a member from the MEP's country when meeting an MEP.

Both the car industry and the environmental organisations focused their lobbying on the rapporteurs and shadow rapporteurs from the responsible and opinion-giving committees. ACEA first and foremost lobbied key MEPs, while encouraging their members to lobby their national MEPs and MEPs from countries in which the individual companies have production sites. Generally, both the car industry and the environmental groups refrained from lobbying MEPs who were vehemently against their views, and MEPs from the fringe groups, unless they were seen as paramount for carrying a vote at the committee or plenary stage. All the interviewed car manufacturers found it difficult to get an informative debate with the *Group of the Greens/European Free Alliance* (Greens/EFA) and the *Group of the European United Left/Nordic Green Left* (GUE/NGL) as these groups often refuse to get information from the industry.

The interviewed interest groups found it particularly important to lobby MEPs from ALDE, which was repeatedly referred to as Parliament's kingmaker and fence-sitter. ALDE is often divided between green British and French MEPs, and industry-friendly German MEPs. On the vans regulation, ALDE was

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<sup>34</sup> The task of a Work Council member (Betriebsrät) is to represent employees in a company. In Germany, general labour agreements are made at the national level by national unions and national employer associations, where after local companies meet with Works Councils to adjust these national agreements to local circumstances. A Work Council member is usually elected by a company for a four year term.

completely split during the committee discussions with the shadow rapporteur (German MEP, Holger Krahmer) in ENVI siding with the car industry and the ENVI coordinator (British MEP, Chris Davies) taking up the views of T&E. Whereas Holger Krahmer tabled amendments supporting a long-term target of 150 g/km by 2020, Chris Davies tabled amendments suggesting a target of 125 g/km (European Parliament 2010b). The division within ALDE shows that the ascendancy of the centre-right majority following the 2009 EP elections - when ALDE and EPP vote together - does not appear to have provided industry groups with a more favourable lobbying venue.

Although environmental issues are not easily incorporated into the traditional left-right conflict dimension, parties on the left of the political spectrum tend to favour stronger environmental protection than parties to the right. However, environmental issues are often seen as a valence issue meaning that no party wants to be seen as favouring anti-environment positions. In the EP, the heterogeneity of the political groups (especially ALDE), and the shifting coalitions mean that policy outcomes are difficult to predict from the outset. Recent VoteWatch data shows that the ALDE group is more inclined to vote with the S&D group on environmental issues during roll call votes than with the EPP group (VoteWatch, 2011b). This suggests, oxymoronically, that the rise of the centre-right in the EP is on decline when it comes to environmental issues.

Throughout the EP policy process, T&E worked closely with Chris Davies by providing him with in-depth policy analyses, expertise, and arguments. T&E would, for example, send an email to make Chris Davies aware of surveys conducted in the German tabloid *AutoBild* on whether or not people want speed limiters for vans, and provide updates on vans regulation in China and the US. The T&E, thus, provided political information about public support for speed limiters. The close working relationship between T&E and the ALDE coordinator amounts to what Hall and Deardorff (2006) would describe as legislative subsidy – organised interests take up the role of being a ‘service bureau’ or ‘adjuncts’ to staff for carefully selected legislators in support of shared policy objectives. As Chris Davies explained when asked how he made up his mind on the vans regulation:

My support of a long-term target of 125 [g CO<sub>2</sub>/km] came from the T&E. I worked closely with T&E. They helped me build my arguments and provided me with research that supported my position. I appreciate the T&E's support, but I don't know how effective they have been in changing people's minds. What you really want is to have a company supporting T&E's position [...] then it would really carry weight.<sup>35</sup>

All of the interviewed car manufacturers saw themselves as engaged in educational activity, whereby they had to improve MEPs understanding of legislation affecting the car industry. They generally found that they had to pitch issues differently when lobbying Parliament compared to the European Commission, as they needed to be less technical and more pedagogical when talking to MEPs and their assistants. As one interviewee explained:

We don't make a complete technical argument to an MEP – he will not be able to follow you. You just try to explain the principles of what you want to achieve. Only very few MEPs understand the technicalities of the car-industry [...] With the European Commission, it's different... they know what they are talking about.<sup>36</sup>

By the end of the EP's scrutiny of the vans regulation, most car manufacturers found that, at least, 'the leads on the issue understood the differences between the passenger cars and the vans regulation because there had been enough information [from the car industry]'.<sup>37</sup>

### **3.4 The EP policy process**

The European Commission's proposal was put forward to ENVI in November 2009 with the committees of 'industry, research and energy' (ITRE) and 'transport and tourism' (TRAN) as opinion-giving committees. ITRE was assigned associate committee status following the so-called 'enhanced' or

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<sup>35</sup> Interview, MEP Chris Davies, 14 September 2011

<sup>36</sup> Interview, car manufacturer, 14 July 2011

<sup>37</sup> Interview, car manufacturer, 18 July 2011

‘reinforced Hughes’ procedure, while TRAN was assigned ordinary opinion-giving status. Many of the policy proposals referred to the environment committee have both environmental and competitiveness implications, increasing the occurrence of turf battles between the EP’s committees. Similar to the European Commission’s DGs, EP committees are often biased towards their policy priorities with ENVI often prioritising environmental over industry concerns.

In several cases, where a legislative proposal has both environmental and competitiveness implications, the EP’s Conference of Presidents has responded by invoking the enhanced Hughes procedure (see Chapter 2 for more on this procedure). Owing to the increased cooperation and cooperation between the EP’s committees, the car industry generally saw the EP as a better aggregator of demands than the European Commission. This was, however, not a view shared by the environmental groups as they did not find that the vans regulation accommodated their views. As can be seen from the table 3.5, the industry’s and green organisations’ preference attainment varied throughout the policy process. The European Commission’s proposal was more environmentally ambitious than the rapporteur’s draft report, the final ENVI report, and the final first reading outcome. Table 3.5 shows that the long-term target was watered down in the EP from 135 g CO<sub>2</sub>/km by 2020 to 147 g CO<sub>2</sub>/km in the final text. The application date for the short-term target was delayed with one year from 2016 to 2017, and the penalties for not meeting the targets reduced from €120 per gram to €95 per gram. It is difficult to uphold the EP’s reputation as an environmental champion in the face of the vans regulation, where the European Commission appeared to be much more ambitious than the EP.

Table 3.5: Key changes to the European Commission's proposal

<b>Document</b>	<b>Short-term target</b>	<b>Long-term target</b>	<b>The excess premium</b>	<b>Other provisions</b>
The European Commission's issue paper, September 2008	175 g CO <sub>2</sub> /km by 2012; 160 g CO <sub>2</sub> /km by 2016	Not included	€120 per gram	The idea of a small volume derogation (SVD) recognised
The European Commission's proposal, November 2009	175 g CO <sub>2</sub> /km by 2016, with phase-in from 2014 to 2016 (75%/80%/100%)	135 g CO <sub>2</sub> /km by 2020	€120 per gram	SVD included
The rapporteur's first draft report, ENVI, April 2010	Supports the European Commission's proposal	150 g CO <sub>2</sub> /km by 2020	€95 per gram	SVD, speed limiters, pooling between vans and cars included
EVNI's final report, September 2010	Supports the European Commission's proposal	140 g CO <sub>2</sub> /km by 2020	€95 per gram	SVD and pooling between vans and cars included; speed limiters excluded
Plenary vote, February 2011	175 g CO <sub>2</sub> /km by 2017 with phase-in from 2014 to 2017 (70%/75%/80%/100%)	147 g CO <sub>2</sub> /km by 2020	€95 per gram	SVD included; pooling between vans and cars, and speed limiters excluded

*Source:* European Commission (200b, 2009); European Parliament (2010a, 2010b, 2010d); European Parliament and Council of the European Union (2011b).

### ***3.4.1 The rapporteur's draft report***

After much debate between the EPP and ECR coordinators, the report was allocated to the ECR group, who appointed Martin Callanan as their rapporteur. All the interviewed car manufacturers saw Martin Callanan as an expert on issues concerning the car industry due to his background as an engineer and his previous work in the EP. In the sixth parliamentary period (2004-2009), he was the EPP shadow rapporteur on the reduction of CO<sub>2</sub> emission from passenger cars - before the British Conservatives broke away from the EPP group - and outside his parliamentary work, he co-chairs the Forum for Automobile and Society. This forum is an arena for debate bringing together motoring organisations (25 members) and MEPs (20 members) to engage in an exchange of views on EU legislation affecting the car industry. The views put forward during the meetings largely reflect those of ACEA. The organisation is financed by its corporate members and MEPs do not pay membership fees.

One might question whether or not there is a conflict of interest in chairing a forum of the automobile industry, whilst at the same time being a rapporteur on a legislative dossier imposing costs on the industry. However, most interviewees did not take issue with this as they did not find the forum to be a place where deals are struck. However, the rapporteur's activity in the forum illustrates that lobbying is not a single shot game, in which interest groups suddenly appear on an MEP's radar when a specific issue emerges on Parliament's agenda. Rather, MEPs and interest groups are in continuous contact with each other through participation in various informal forums. These contacts become important when lobbying on specific dossiers as - as one interviewee expressed - 'you don't suddenly launch yourself into a process without any previous contact with MEPs'.<sup>38</sup>

Prior to writing his draft report, Martin Callanan consulted a large number of affected stakeholders. The British Conservatives is the only party delegation in the EP to have introduced an online lobbying contact report, where MEPs list

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<sup>38</sup> Interview, car manufacturer, 14 July 2011



all the organisations to have had ‘sit-down’ meetings with. During the period from 1 January 2010 to 31 December 2010, Martin Callanan had 41 meetings with affected stakeholders on the vans regulation, 32 of these were with representatives from the car industry, one with a British SME (Federation of Small Businesses, FSB), three with environmental groups, two with postal companies (United Parcel Service and Deutsche Post), one with the American Chamber of Commerce, and three with journalists from motor magazines (Conservatives in the European Parliament 2010). Thus, both the car industry and the environmental organisations had meetings with the rapporteur and ‘access’ was not conferred on a privileged few. Martin Callanan met with most interest groups more than once, and was generally seen as open to the views of both the industry and green organisation. As he explained:

I met with the environmental groups, and I met with the motor manufacturers to hear both sides of views, but I didn’t actively go out and consult anybody [...] I didn’t write to people and say ‘let me know your views’. Many people were happy to give me their views voluntarily. They were sending me lots of contributions on it. So I received, obviously, lots of submissions.<sup>39</sup>

Due to the large volume of information sent to Martin Callanan by affected stakeholders, he did not find it necessary to actively seek out affected groups. This has one obvious flip side in that only those organisations that got organised and active on the issue were heard. Martin Callanan started off with a position that was slightly sceptical about the need for a vans regulation, arguing that vans are bought by businesses that are already conscious of the need for economy and fuel efficiency. Because of this, it was his belief that it was necessary to have an ‘ambitious but realistic long-term target, and an appropriate short-term target that takes into account both the need of industry product cycles and the need for environmental improvement’ (European Parliament, 2011d). His position deviated from the official position of the British Conservative party in the House of Commons, who initially supported a long-term target of 135 g CO<sub>2</sub>/km by 2022 and later a long-term target of 140 g CO<sub>2</sub>/km by 2020. The British

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<sup>39</sup> Interview, Martin Callanan, September 2011

Conservative party does not impose a whipping system on its MEPs. It is, therefore, not uncommon for British Conservative MEPs to be out of tune with the position taken up by the government in the Council.

In his draft report, Martin Callanan expressed doubts about the feasibility of the proposed long-term target of 135 g CO<sub>2</sub>/km by 2020. Given the higher costs of reducing CO<sub>2</sub> in light commercial vehicles compared to cars, and the longer development and production cycles needed, he argued that a target of 150 g CO<sub>2</sub>/km would be a more achievable target. Lastly, the draft report included two new provisions, which were not included in the European Commission's proposal, although these were considered in its impact assessment:

- The possibility of pooling between vans and passenger cars (averaging between distances to targets) for manufacturers that produce both cars and light commercial vehicles. Pooling between cars and vans reduces compliance costs and provides for flexibility for car manufacturers.
- The introduction of mandatory speed limiters for light commercial vehicles of 120 km/hour as a cheap and effective way of immediately lowering emissions (European Parliament 2010b).

All 12 interviewed interest groups perceived Martin Callanan as a person who was trying to play the role as a good rapporteur by putting forward a report that sought to reconcile diverging views inside Parliament and the Council. The draft report was welcomed by ACEA, whereas the environmental organisations regretted that the initial European Commission proposal had been weakened. Although the rapporteur's draft report favoured the views of the industry in terms of easing the long-term target and reducing the penalty premium, it did not give in to industry pressures to delay the phase-in of the short-term target.

### ***3.4.2 The committee report***

On 28 September 2010, ENVI voted to weaken the long-term target proposed by the European Commission of 135g CO<sub>2</sub>/km by 2020 to 140g, to suggest more modest fines for manufacturers who fail to comply with these rules, and to exclude amendments, proposed by the industry and TRAN, to introduce speed limiters on vans. The long-term target agreed in ENVI was, however, more ambitious than that of ITRE (150 g CO<sub>2</sub>/km by 2020) and the transport committee (135 g CO<sub>2</sub>/km by 2022). The ENVI report was adopted with 32 votes in favour, 25 against and one, reflecting a compromise struck between the rapporteur and the shadow rapporteurs from the ALDE, EPP and S&D groups.

Prior to the vote in ENVI, significant lobbying had occurred. The committee discussions particularly circled around the long-term target and whether or not to introduce speed limiters into the scope of the vans regulation. During debates in ENVI, discussions on the vans regulation were nationally dominated between MEPs from car-manufacturing and non-car-manufacturing countries. Czech, French, German, Italian, Polish and Romanian MEPs across the political groups were fairly critical of the European Commission's proposal, and sided with the industry view. Many car manufacturers have relocated their production plants to Central and Eastern Europe. Therefore, it is not uncommon to see 'MEPs from the new member states defending the interests of the car industry as they are a massive employment source'.<sup>40</sup> Both T&E and ACEA emailed word suggestions for amendments to MEPs in the responsible committees that they thought would be willing to defend their views. Unfortunately, I was only able to get hold of the amendments proposed by ACEA as green organisations were unwilling to provide me with the amendments they had sent to MEPs. However, several MEPs from the Greens, GUE/NGL, S&D and ALDE groups put forward amendments reflecting the views of T&E and Greenpeace.

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<sup>40</sup> Interview, EP policy advisor, July 2011

Many MEPs, supporting a green line, took up the same position as T&E by supporting the introduction of speed limiters and a long-term target of 125 g CO<sub>2</sub>/km. T&E and Greenpeace managed to keep the issue of speed limiters high on Parliament's agenda throughout the ENVI discussions. Several interviewees doubt that the issue of speed limiters would have become so prevalent in Parliament without T&E and Greenpeace lobbying so strongly in favour of including it within the scope of the vans regulation. T&E was the only stakeholder, who suggested an amendment on speed limiters and conducted a study on it. Thus, it was the only material around in Parliament to inform MEPs and assistants about the benefits of speed limiters. Several MEPs put forward amendments supporting the introduction of speed limiters. Particularly the S&D shadow rapporteur (Matthias Groote) was a staunch supporter of introducing speed limiters into the scope of the vans regulation. Many car manufacturers found it perplexing that a German MEP with a past in Volkswagen vehemently pushed for the introduction of speed limiters. Within the car industry some were in favour of introducing speed limiters into the vans regulation and others against. Germany is the only country in the EU not to have speed limiters for light duty vehicles. The question of whether or not to introduce speed limiters for light duty vehicles has on several occasions been subject to debate in the German Bundestag. Some car manufacturers had the impression that 'knowing that Mathias Groote would not get it introduced in Germany, he was trying to introduce it through the European Parliament'.<sup>41</sup> Several interviewees questioned the purpose of fighting for the introduction of speed limiters given Germany's opposition towards it. Although environmental organisations knew that amendments introducing speed limiters would be difficult to get through in the Council, they hoped that MEPs could at least use it as a bargaining chip during the trialogue meetings to secure a more ambitious long-term CO<sub>2</sub> reduction target. As a representative from an environmental group put it:

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<sup>41</sup> Interview, car manufacturer, 14 July 2011

We thought that it would be fantastic to win the issue of speed limiters fully and it would be fantastic to have it in the legislation but we weren't quite so reckless in our thinking. It would have been a good way to negotiate with the Council.<sup>42</sup>

The German lobby against speed limiters was very strong and many feared that if speed limiters were introduced for light commercial vehicles, it would set precedent for introducing it on passenger cars. In the end, the issue of speed limiters was defeated during the ENVI vote. The final text, agreed between the EP and the Council, included a recital requesting the European Commission to investigate the feasibility of extending the scope of another directive (the Council Directive 92/6/EEC on 'the installation and use of speed limitation devices for certain categories of motor vehicles in the Community') to light commercial vehicles. ACEA did not focus its main lobbying on the issue of speed limiters, but rather focused on easing the long term target. They were successful at getting several MEPs from car manufacturing countries to put forward amendments drafted by ACEA. ACEA emailed 24 amendments to MEPs in the environment committee (ACEA, 4 May 2011), 23 of which were put forward with the exact same wording and justification by 11 MEPs from the EPP, ALDE, EFD, and S&D groups from the Czech Republic, Italy, Germany, Poland and Romania<sup>43</sup> - all MEPs from cars and vans-producing countries. In the industry committee, ACEA emailed 25 amendments to MEPs in the industry committee, twenty of which were put forward with identical wording and justification by 13 MEPs<sup>44</sup> from the EPP, ALDE, ECR, and S&D groups from the Austria, Czech Republic, Italy, Germany, Poland and Romania, and Spain. Many German MEPs were influenced by the German car industry and supported a long-term target of

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<sup>42</sup> Interview, environmental group, 11 July 2011

<sup>43</sup> Rosario Crocetta (S&D, Italy), Jorgo Chatzimarkakis (ALDE, Germany), Cristian Silviu Busoi (ALDE, Romania), Adina-Ioana Vălean (ALDE, Romania), Paolo Bartolozzi (EPP, Italy), Sergio Berlato (EPP, Italy), Elisabetta Gardini (EPP, Italy), Licia Ronzulli (EPP, Italy), Salvatore Tatarella (EPP, Italy), Miroslav Ouzky (ECR, Czech Republic), Oreste Rossi (EFD, Italy), and Bogusław Sonik (EPP, Poland).

<sup>44</sup> Mario Pirillo (S&D, Italy), Patrizia Toia (S&D, Italy), Ioan Enciu (S&D, Romania), Silvia-Adriana Ilicău (S&D, Romania), Teresa Riera Madurell (S&D, Spain), Jorgo Chatzimarkakis (ALDE, Germany), Adina-Ioana Vălean (ALDE, Romania), Paul Rübig (EPP, Austria), Aldo Patriciello (EPP, Italy), Amalia Sartori (EPP, Italy), Marian-Jean Marinescu (EPP, Romania), Konrad Szymański (ECR, Poland), and Evžen Tošenovský (ECR, Czech Republic).

160 g CO<sub>2</sub>/km. Despite of this, one issue played against the effectiveness of the car industry's lobbying: the car industry's credibility. Some MEPs had the perception that the car industry had fought too hard and overachieved on the passenger cars regulation. As one car manufacturer explained:

There was a view in the environment committee that the industry had somehow misled MEPs and had been too successful on the passenger cars regulation, and that there should be a bit of a pay-back this time. It was a very clearly stated position that they [MEPs] felt they had the wool pulled over their eyes [on the cars regulation] and they didn't want to let that happen again.<sup>45</sup>

During committee and plenary discussions, several MEPs uttered that the European car manufacturers had been able to achieve the EU's CO<sub>2</sub> targets for passenger cars several years before the deadline in 2015. Many MEPs took this as a sign of manufacturers having exaggerated their demands and been dishonest with MEPs during the negotiations on the cars regulation. The misgivings toward the car industry might explain why the final ENVI report opted for a long-term target that was more ambitious than that put forward in the rapporteur's draft report.

### ***3.4.3 The final policy outcome***

Following the ENVI vote, Martin Callanan and the ENVI shadow rapporteurs went into trialogue meetings with the Council. In late November 2010, the Council and the EP managed to agree on a compromise package that was less ambitious than the European Commission's proposal on a number of points. Full compliance with the short-term target was delayed by one year; the level of penalty for non-compliance (the excess emissions premium) was lowered; and the ambition of the long-term target was decreased to 147 g CO<sub>2</sub>/km. The issue of pooling between vans and cars was dropped during the trialogue meetings.

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<sup>45</sup> Interview, car manufacturer, 18 July 2011

On 15 February 2011, a coalition formed by the EPP, ECR, S&D and ALDE groups voted in favour of the Council and Parliament's compromise text. Table 3.6 shows the voting behaviour of the political groups on the final vote on the draft legislative resolution. The cohesion score (also known as the index of agreement) denotes how united an EP political groups is in voting situations and is calculated on the basis of an agreement index.

The EFD, the Greens, and the GUE/NGL groups voted against the compromise package reached between the Council and the EP, albeit for very different reasons. EFD opposed the compromise package because they believed that the economic impact of the regulation is excessive in relation to the significant reduction of CO<sub>2</sub> at a global level. Furthermore, they denounced the agreed long-term target as being political oblivious to real market conditions and consumer interests. The Greens and GUE/NGL voted against because they did not find the final policy outcome to be environmentally ambitious enough, and criticised MEPs for caving in to pressure from car manufacturers. Many ALDE and S&D MEPs grudgingly supported the compromise package as they feared that a second reading would run the risk of 'destroying this achievement as small as it may be' (European Parliament, 2011d).

Table 3.6: Plenary vote on the draft legislative resolution, 15 February 2010

<b><i>Politics groups</i></b>	<b><i>For</i></b>	<b><i>Against</i></b>	<b><i>Abstaining</i></b>	<b><i>Voting cohesion</i></b>
ALDE	74	5	2	87.04%
ECR	48	0	2	94%
EFD	3	17	2	65.91%
EPP	239	0	2	98.76%
Greens/EFA	1	51	0	97.12%
GUE/NGL	3	26	1	80%
NI	4	14	6	37.50%
S&D	162	4	0	96.39%

Source: Adapted from VoteWatch (2011)

The ALDE coordinator accused the EPP for ‘talking on behalf of big business [...] instead of on behalf of all the businesses, which use light commercial vehicles and which needs more fuel-efficient technology to drive down costs’ (European Parliament, 2011d). Similarly, Corinne Lepage (French ALDE MEP) argued that the outcome was a result of the major producing countries, supported by the majority of MEPs, being pervious to the industry’s arguments. S&D MEPs welcomed the new regulation but regretted that the EU was unable to reach a more ambitious target for 2020. In the words of the S&D shadow rapporteur Matthias Groote (German MEP), ‘our group tried to push for a faster reduction of emissions, but this is the best compromise that we could reach at this point’ (European Parliament, 2011d). Martin Callanan, the rapporteur, saw the outcome as a good balance between ensuring improved environmental standards and giving a realistic and achievable target for the vans manufacturing sector. In the plenary debate, he proclaimed that:

The fact that, by reaching this compromise figure, we are being attacked on one side as being pro-industry and on the other as being too environmentally friendly, suggests to me that possibly, we have just got the balance right (European Parliament, 2011d).

Car manufacturers found the final policy outcome challenging, but more realistic than the European Commission’s initial proposal. T&E and Greenpeace regretted that the initial European Commission proposal had been weakened under pressure from the industry. The first reading agreement meant that there was no room for interest groups to influence the outcome of Parliament’s plenary vote as MEPs voted, and adopted, the compromise reached between Parliament and the Council. Several car manufacturers uttered scepticism towards the EU’s institutions ostensibly haphazard manner of striking compromises, which appeared to be driven more by pressures to avoid a second reading rather than by scientific analyses of what is achievable for the car industry. In the words of one interviewee:



[147] is a number based on a compromise. It's not driven by any scientific analysis of what is achievable; it's a political outcome. I think there is a debate to be had whether that is a satisfactory process for determining something, which is actually very important and deals with issues of climate change, CO<sub>2</sub> reduction and the future of the automotive industry.<sup>46</sup>

The long-term target was based on a political compromise between the Council and the EP as the Council initially opted for a long-term target of 155 g CO<sub>2</sub>/km and Parliament for 140 g CO<sub>2</sub>/km. Most interviewees were surprised that the Council and the EP managed to strike a first reading deal given the genuine disagreement both within and between the two institutions. Germany was particularly sceptical about introducing any long-term target below 155 g CO<sub>2</sub>/km. In the end, Germany supported a long-term target of 147 g CO<sub>2</sub>/km because they were offered a concession on the regulation on 'state aid to facilitate the closure of uncompetitive coal mines' (European Commission 2010). Germany agreed to a long-term target on 147 g CO<sub>2</sub>/km on the vans regulation in return for pushing the phase-out date on coal mine subsidies back by four years from 2014 (suggested by the European Commission) to 2018.<sup>47</sup> The example brings to light the complexity of EU decision making, in which numerous factors affect the final policy outcome. Horse-trading, concessions, and compromises are key features of EU decision-making and necessities to reach agreements across member states and institutions. With its enormous diversity of interests, EU policy-making would inexorably result in a deadlock if it was not for the extensive use of informal strategies to prevent political stalemates. Package deals, based on issue linkage, is a typical strategy employed by the EU to prevent stalemate, and 'constitute a normal lubricant for democratic decision-making processes under conditions of diversity' (Héritier, 1999, p. 98).

Paradoxically, Germany and German MEPs are generally seen as climate leaders on environmental policies except when it concerns the German car

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<sup>46</sup> Interview, car industry, 18 July 2011

<sup>47</sup> Interview, diplomat from the Dutch Permanent Representation to the EU, September 2011; Interview, diplomat from the German Permanent Representation to the EU, September 2011

industry. Germany can, therefore, both be regarded as an environmental ‘trend setter’ to use Angela Merkel’s own words and as green car laggard (Hey, 2007, p. 216)). This contradiction can be interpreted as an on-going battle between two advocacy coalitions on the link between competitiveness and environment. Since 2007, German coalition governments have largely supported the idea of ecological modernisation, which assumes that environmental regulation and economic competitiveness can be favourably combined. The positive synergy between the economy and ecology has been scientifically confirmed, as stated in a number of reports of the German advisory Council on the Environment (Sachverständigenrat für Umweltfragen, 2008). The German government has put forward policies that reflect a ‘new green deal’ that favours ‘ecological industry policy’ (Hey, 2007, p. 216). However, supporters of the old frame – that environmental policy kills competitiveness – still exist in business and within the ministry of economics. This frame came to for among many German MEPs and the German government when the European Commission came forward with its proposals on reducing CO<sub>2</sub> emissions from cars and vans.

It is too simple to explain Germany’s position solely with reference to the importance of its car industry for German employment and growth. The position of Germany and many German MEPs has to be seen in the context of the specifics of German federalism and its strong corporatist tradition. Germany has a federal system with a strong corporatist tradition, granting sectoral employers and trade unions privileged and institutional access to the public decision making process, while preventing diffuse interests from interfering with policy-making. Although changes are occurring in the German political system with corporatist ties gradually loosening and giving way to a more pluralistic interest group system – such as the case of the energy sector<sup>48</sup> - corporatism has remained strong in the automobile sector. The strong role of the German Bundesländer within the federalist decision-making system further strengthens

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<sup>48</sup> More pluralism can be seen in the energy sector, where the renewable energy sector has become an influential player. Germany’s decision in 2000 to phase out nuclear power shows the importance of the green energy sector, and the unwillingness of the German government to succumb to pressures from the power sector. Germany upheld its decision to phase out nuclear power regardless of a change in government in 2005 even when the green party was no longer part of the coalition government (Hey, 2010).

the car industry's influence on German politicians. Many German car manufacturers have their production sites in Bavaria, Baden-Wurttemberg, Hessen, North Rhine-Westphalia, and Lower Saxony, which means that 'the presence of a strategic employer is felt more strongly at the local and regional levels, closer to the employer, than at a higher level' (Hey, 2010, p. 224). Many of these Bundesländer are swing states in which no single political party has overwhelming support, and thus do not dare to risk its majority by losing car workers' support. Therefore, politicians from car producing Bundesländer tend to be strong advocates of their local car industry interests. While German EP elections are based on a closed party list system and most MEPs, except CSU<sup>49</sup>, are elected from a national list, MEPs residing in Bundesländer with car production sites tended to defend the car industry's interests on the vans regulation more strongly than MEPs from Länders without car production sites.

### **3.5 Discussion: what factors explain why the EP watered down the European Commission's proposal?**

The findings from the vans regulation show that the EP no longer appears to be a particularly sympathetic venue to environmental groups. This finding is also supported by recent findings by Smith (2008) and Burns and Carter (2010), suggesting that the conclusions drawn from the vans regulation go beyond the specific case. Smith's (2008) research on the End-of-Life Vehicles Directive and REACH shows that the EP's green credentials is contingent upon the degree to which MEPs are exposed to lobbying from both diffuse interests and business groups, and the level of overlap between the policy realms of the EP committees. Burns and Carter's (2010) study of whether the EP's reputation as a green

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<sup>49</sup> Germany operates with two electoral districts for the purpose of the presentation of ballot papers for EP elections (one for Bavaria and one for the rest of Germany), and one single national district for the purpose of counting the votes and allocating seats. This way, the CSU presents a list of candidates only in Bavaria while the CDU presents a list of candidates in the rest of the country. The votes are then pooled nationally, so the CSU have to win more than 5% of national votes to win any seats, and the CSU needs to have at least 35 % of the Bavarian electorate to pass the national threshold of 5 %.

champion is still deserved finds that the EP has toned down its demands for stringent EU environmental regulation over time. Similarly, on the vans regulation, the EP did not assume the role of environmental policy champion.

Why did the EP agree on a text that went against its traditional role as a defender of environment interests? Three explanations to this question repeatedly came up during the interviews: asymmetric lobbying from the car industry, a change in the EP's negotiating strategy, and increased cooperation between the EP committees. The first explanation - asymmetric lobbying - relates to the activities of the involved interest groups, whereas the latter two relate to the question of how the EP as an institutional venue shape, what Scharpf would call, 'games real actors play' (1997).<sup>50</sup>

First, all interviewees agreed that the long-term target would have been closer to the European Commission's position without lobbying from the car industry. In the European Commission's mind, there was no doubt that the car industry managed to water down the proposal as nobody else, other than the car industry, lobbied for less stringent targets. If the car industry had not lobbied, there would have been no incentive for MEPs to defend the industry's view. In the words of an ACEA representative:

If we had not said anything that would have meant that we would have agreed with what was on the table [the European Commission's proposal]. Either it would have stayed at what the European Commission proposed or gone down following lobbying from T&E.<sup>51</sup>

Legislators that are exposed asymmetrically to industry lobbying on a specific dossier are less likely to support ambitious environmental provisions than those who are more evenly exposed to lobbying from opposing interest groups. When legislators are subject to a variety of alternative understandings of a specific policy issue, they are likely to reconsider and mould their support for a specific

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<sup>50</sup> By marrying game theory with new institutionalism (rational choice institutionalism), Scharpf explores the ways that archetypal games among constellations of actors are structured by their institutional settings. According to this logic, political outcomes are not a simple sum of preferences, but the result of the specific decision-making rules in play and the efforts of key players to take advantage of these rules.

<sup>51</sup> Interview, ACEA, 13 September 2011

policy proposal. However, some MEPs proved to be unwilling to hear both sides of the argument, especially Greens/EFA and GUE/NGL MEPs refused to get information from the industry.

Second, a more compelling, institutional, explanation of why the EP did not take up the role as a champion for environmental groups has to do with a change in the EP's negotiating strategy. As one EP committee administrator explained, 'the EP can take two positions: it can propose a very ambitious target and have some negotiation margin, or it can propose something that is realistic – Martin Callanan took up the last strategy'.<sup>52</sup> All interviewees agreed that the rapporteur tried to steer a middle ground between competing demands in Parliament, and took up a realistic position that would be acceptable for the Council given Germany's sceptical position. The increased use of informal meetings between the EP and the Council from before the first reading means that the EP can more effectively predict which amendments have a chance of being accepted by the Council. Martin Callanan's approach can therefore be seen as part of a process of anticipatory compliance, whereby the EP moderates its demands to increase the likelihood of reaching an agreement with the Council. It is widely acknowledged by EU scholars that the introduction of new formal and informal decision-making rules has altered the dynamics between the EU institutions (see, for instance, Shackleton, 2000; Burns & Carter, 2010) In the past, the EP saw itself as part of a long-term institutional game to increase its powers and was prepared to adopt challenging amendments or even sacrifice legislation to boost its legislative powers. With the application of the ordinary legislative procedure to most areas under the Lisbon Treaty, the EP has won its 'battles for more legislative powers' (Burns and Carter, 2010, pp. 16–18). This has in turn led the EP to moderate its demands to be seen as a credible and serious legislative player.

Lastly, several interviewees found that there was better cooperation and communication between the EP committees than between the European Commission's DGs, and therefore saw the EP as a better aggregator of demands.

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<sup>52</sup> Interview, EP policy advisor, July 2011

It is not unusual for the European Commission to suffer from strong in-fights between Commissioners. There are often turf wars between DG for Environment/DG for Climate Action favouring environmental concerns and DG for Enterprise and Industry advancing industry concerns. Likewise, 'there are often disputes between the environment and industry committees [in the EP] with the industry committee supporting a pro-industry line, and the environment committee taking up a pro-environment line, although Parliament tends to arbitrate between the two lines'.<sup>53</sup> The increased cooperation between the EP committees as a result of the introduction of the reinforced Hughes procedure in 2002 has led to increased communication and cooperation between the EP committees. When the Hughes procedure is enforced, reports from responsible committees are less likely to be carried on the floor without taking into account the views of MEPs from associate committees. Committee members, particularly rapporteurs and shadow rapporteurs, act as cue-givers to non-committee members, who have less information and often less intense preferences (Ringe, 2010). The more committees involved in the scrutiny of a legislative proposal, the higher the diversity of cues given from expert MEPs to non-expert MEPs, rendering the position of the lead committee more vulnerable to changes during plenary. ENVI amendments are thus less likely to be carried on the floor without concessions to the competitiveness concerns of ITRE MEPs. The increased degree of horizontal policy coordination between the EP's committees has to be seen in tandem with a general change in the EU's environmental regulatory discourse and a change in the saliency of environmental policies from silent to salient (Wurzel and Connelly, 2011; Wurzel, 2012). Until the late 1990s, EU environmental politics was largely driven by an environmental advocacy coalition, including the EP's ENVI committee and the European Commission's DG for Environment (Wurzel, 2012). The sectoral autonomy of EU policymaking with weak horizontal policy coordination made it possible for the EP's ENVI committee together with the European Commission's DG for Environment to act as policy champions for environmental groups.

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<sup>53</sup> Interview, MEP, August 2011

However, ‘since 2000 the EP has been increasingly influenced by the EU’s general fixation with the Lisbon Agenda’ and its focus on creating a competitive economy (Burns and Carter, 2010, p. 15). Environmental legislation is increasingly viewed through a competitive lens – rather than merely being embedded in an environmental frame – with closer attention paid to the competitive implications of environmental policies. The Europe 2020 Strategy, replacing the Lisbon Strategy, has become a point of reference for much of the EU’s current legislation with the aim of making Europe more dynamic and competitive. The increased focus on the Europe 2020 strategy has created overlap between policy realms of the European Commission’s DGs, the EP’s committees and the Council’s working groups. The increased horizontal policy coordination has diminished the EP’s previous role as a defender of environmental interests.

### **3.6 Conclusion**

Why did the EP accept a text that diluted the environmental ambition of the European Commission’s proposal instead of taking up its traditional role as a policy champion for environmental groups? This chapter has shown that both factors pertaining to the specific case of the vans regulation as well as wider EP institutional changes explain why the EP did not act as a conduit for environmental groups on the vans regulation. Firstly, MEPs, MEP assistants, and EP policy advisors were asymmetrically exposed to lobbying from the car industry because environmental organisations were both less numerous and active in pressing their demands before the EP. Although the T&E and Greenpeace did not have any of their demands included in final outcome, they managed to launch and sustain a debate within the EP on the issue of speed limiters. Several interviewees doubt that the discussion on speed limiters would have been so prevalent in Parliament had Greenpeace and T&E not lobbied so strongly in favour of it. Although Greenpeace and the T&E fervently supported the inclusion of speed limiters within the scope of the vans regulation, they knew

it would be difficult to get through the Council due to the opposition from Germany. Nevertheless, they hoped that if Parliament could not get it included in the vans regulation during the trialogue meetings, it could at least provide a basis for getting concessions on the long-term target. The issue of speed limiters show the importance of focusing on both the policy process and the outcome. As expected from Wilson's typology, without increase public attention and a policy entrepreneur to represent the general public, interest groups carrying concentrated costs are often more influential in decision-making than groups faced with diffuse benefits. The assumption from the wider interest group literature linking specific information types and tactics to specific groups was however not fully supported in this case study. Both NGOs and the automotive industry enjoyed direct access to MEPs and none of them used 'outside' tactics to catch the eyes of MEPs. Furthermore, both the industry and the green organisations presented MEPs with technical information, although the T&E also provided MEPs with political information about people's support for speed limiters. All interviewed interest group representatives used inside (access) and not outside (voice) strategies.

Secondly, lobbying on one dossier cannot be seen in isolation from other dossiers. The vans regulation closely mirrored the existing legislation on the reduction of CO<sub>2</sub> emissions from passenger cars. This highlight an important premise in Wilson's typology, namely that strengthened environmental regulation often comes about without being preceded by a crisis or increased public salience. Rather new regulation is a result of an existing policy preparing the way for the passage of another. As all the big dragons had been slain in the debate on the reduction of CO<sub>2</sub> emissions from passenger cars in 2007–2008, lobbying on the vans regulation was restricted to a small number of issues. The car industry's credibility was questioned by several ENVI MEPs, who thought the car industry had fought too hard on the passenger cars regulation. This may explain why the final committee report suggested a more stringent long-term target than the one put forward in the rapporteur's draft report. Furthermore, the very nature of EU legislation as closely mirroring existing legislation means



that there is often little room for interest groups to change the thrust of a legislative proposal, limiting the risk of business capture.

Thirdly, wider institutional changes inside the EP and between the EU institutions mean that the EP has sought to moderate its environmental demands. These institutional changes relate to increased cooperation between the EP committees (responsible and opinion-giving committees), a change in the EP's negotiating strategy, and a change in the EU's regulatory discourse. Although turf wars between ENVI and ITRE are an oft-occurring feature in Parliament, the increased cooperation between the two means that policy outcomes tend to steer a middle course. The increased cooperation between the EP's committees - following the introduction of the Revised Hughes procedure in 2002 - has to be seen in connection with a general change in the EU's environmental regulatory discourse. Environmental legislation is increasingly viewed through a competitive lens with closer attention paid to the competitive implications of environmental policies.

In addition to the above, the EP also appears to have changed its strategy when negotiating with the Council from being a challenging, and at times stubborn, player to becoming a more constructive legislative player. On the vans regulation, this was exemplified with the rapporteur taking up a position that would serve as a reasonable point of departure for reaching an agreement with the Council. Although Parliament has in the past been seen as an environmental trailblazer advocating the views of environmental interests, it now appears to be more of an environmental pragmatist. This has in turn reduced the privileged position once held by green organisations, and industry groups with a more favourable European parliamentary arena in which they can advance their demands. Thus, the likelihood that ENVI MEPs take up the role as a policy entrepreneur for environmental interests has decreased. This has in turn paved the ways for interest groups shouldering concentrated costs to push ENVI policy outcomes in their favoured direction. However, the nature of EU policies as often mirroring existing regulation and the need for compromises in the EU also means that industry groups are unlikely to get it all their way. This is consistent with Wilson's (1980) observation that improved environmental regulation is not

necessarily preceded by a crisis or increased salience, but may simply be a result of spill-over effects of existing regulatory policies, namely that one regulation prepares the way for the passage of another regulation.

## **Chapter 4: Food Information to Consumers**

Should nutrition labelling be mandatory? What nutritional information should be displayed on the packaging of food products? How should nutritional information be displayed? These questions have provoked heated debate in the EU following the European Commission's 2008 proposal for a regulation on food information to consumers. Food labelling rules are of great importance to food multinationals because it 'affects how their products are perceived by consumers and how well they sell' (Corporate Europe Observatory, 2010, p. 2). Mandatory rules for food labelling could potentially discourage consumers from buying certain products. Food labelling is a political issue raising the question of who decides whether or not a product is regarded as healthy. Food politics involves the struggle over how decision-makers weigh business interests against public interests. These conflicts come to the fore whenever food industries seek to prevent regulation seen as unfavourable to their sales, and when the food industry 'justifies self-interested actions as a defence of freedom of choice or exclusion of big brother government from personal decisions' (Nestle, 2007, p. 28).

The volume of lobbying on the European Commission's proposal for a regulation on food information to consumers has been immense and been compared to the lobbying on the REACH (Registration, Evaluation, Authorisation and restriction of Chemicals) regulation between 2003 and 2006. The European Commission's REACH proposal for improved regulation of chemicals sparked, what is regarded as, one of the biggest industry lobbying campaigns experienced in the EU (Corporate Europe Observatory, 2010, p. 2). Similar to the REACH regulation, MEPs and parliamentary assistants reported to have been flabbergasted by the amount of lobbying from the food industry on the food labelling regulation. In an interview to the BBC, the ECR shadow rapporteur, Struan Stevenson, said that 'lobbyists have now penetrated the inner sanctum of Parliament and they're walking into our offices very often without any appointments at all [...] there are armies of them. I've never seen anything

like it' (Hickman, 2010). Despite the overwhelming lobbying from the food industry, this chapter shows that consumer and health groups were not completely outmanoeuvred by the food industry. However, although consumer groups carried some weight during the EP's policy process, the EP did not live up to its previous reputation as 'a forceful promoter of consumer interests and a consistent critic of the European Commission's failing in the consumer policy field' (Greenwood, 2011, p. 164).

The overall characteristic of the regulation is that of entrepreneurial politics, engendering concentrated costs on the food industry and diffuse benefits to consumer and health groups. The food industry is expected to have greater incentives to lobby the EP and be more influential than consumer groups. However, as this chapter will show, interesting variation exists on sub-issues within the regulation that amounts to client, interest group, and majoritarian politics. The regulation on food information to consumers, therefore, represents an interesting case for testing Wilson's hypotheses about interest group mobilisation and influence.

This chapter starts off by presenting the European Commission's proposal and the reactions from NGOs and business groups. I thereafter examine the EP's policy process and outcome before turning to the impact interest groups have had on the policy outcome. While the food labelling regulation can overall be seen as an example of entrepreneurial politics, this chapter shows that the case includes several types of politics, including those of majoritarian and interest group politics. The food labelling dossier therefore provides an interesting case for examining the applicability of Wilson's politics of policy typology to the EP.

#### **4.1. The European Commission's proposal**

In January 2008, the European Commission put forward a legislative proposal for a regulation on food information to consumers, which merged two existing directives (Directives 90/496/EC on nutrition labelling for foodstuffs, and

2000/13/EC on the labelling, presentation and advertising of food) into a single piece of legislation (a regulation). The main aim of this new piece of legislation is to make food labels clearer and more relevant to consumers, and to set out specific mandatory requirements for displaying information on the front of packaging. The draft regulation also seeks to provide consumers with the essential information they need to make informed and healthy purchasing choices. Prior to the EU's adoption of the regulation on food information to consumers in 2011, the food industry was only obliged to include the following information on their food labels: the name of the product, the list of ingredients, the best before or use-by-date, any special conditions of use, and the name and address of the manufacturer. Additionally, there were specific labelling requirements for certain foods and substances, such as meat and fish. Until now, nutritional labelling has been voluntary, although it has been compulsory when a nutrition or health claim is made in labelling, presentation, or marketing of a food product. The push for regulating food information to consumers arose as a result of patchy implementation of the food industry's own voluntary guidelines agreed in the European Commission's Platform on Diet, Physical Activity, and Health. This platform was established by the Directorate-General of Health and Consumer Protection (DG SANCO) in 2005 and brings together representatives from the food industry, and consumer and health organisations. The purpose of the platform is to address the Europe-wide problems of unhealthy diets, rising obesity, and lack of exercise by engaging in concrete actions, such as self-regulatory commitments by the food industry on (voluntary) rules governing food package labels, advertising, and product composition.

The food industry's implementation of its own self-regulatory standards is inconsistent. The aim of the draft regulation is, therefore, to provide a more uniform situation in products sold on the EU market, which presents consumers with reliable and easy to access nutritional information. The European Commission's draft regulation was drawn up following an extensive consultation process, such as an online survey consultation and more specific consultations

with member states, the food industry, and consumer groups.<sup>54</sup> The European Commission's proposal suggested to introducing:

- Mandatory front of the pack labelling for a range of nutrients (energy, fat, saturates, carbohydrates and salt) expressed as amounts per 100 g/ml or per portion size. In addition, the mandatory nutrients must be declared in relation to reference intakes (i.e. guideline daily amount, GDA).
- A minimum font size of 3mm for lettering on labels and a clear contrast between print and the background to improve readability in order to avoid important nutritional information being obscured or overshadowed by advertising slogans.
- More protection against allergens by making labelling of food containing allergenic substances mandatory for both pre-packed and unpackaged food.
- Member states can adopt national labelling rules governing the manner in which particulars are shown.

The labelling requirements cover processed food and drink products and exclude non-processed/non-pre-packed food, such as meat and vegetables. Alcoholic drinks, such as wine, beer and spirits, are currently excluded from the proposal, except ready to drink alcoholic beverages (so-called alcopops, such as Smirnoff Ice and Bacardi Breezer).

#### *4.1.1 The cost/benefit profile of the proposal*

The European Commission's impact assessment was based on a public consultation by means of a consultative document (see European Commission,

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<sup>54</sup> For responses to the survey consultation see : [http://ec.europa.eu/food/food/labellingnutrition/betterregulation/index\\_en/htm](http://ec.europa.eu/food/food/labellingnutrition/betterregulation/index_en/htm) (last accessed 23 July 2012)

2006), advisory group meetings,<sup>55</sup> a qualitative study on labelling carried out by an external contractor, and research conducted by the research institute RAND Europe. RAND Europe conducted an online consultation of the food industry to collect information and data about the possible impacts of the different regulatory options considered by the European Commission. The Commission's impact assessment generally stressed the benefits of harmonising food labelling rules to provide a level playing field for food companies and to enable consumers to make safe and well informed choices. The impact assessment highlighted that food labelling legislation is often perceived as politically problematic because labelling rules tend to be very detailed and technical, which impose administrative and financial burdens on food manufacturers. Yet, at the same time, detailed and harmonised EU rules offer more legal certainty to manufacturers because they do not have to make their own labelling rules and/or change their labels in accordance with different rules in different member states. The European Commission's proposal was seen as creating four main benefits:

- Achieving legal clarity and harmonised implementation;
- Ensuring the efficient functioning of the internal market;
- Enabling consumers to make better informed choices when buying food products by improving the legibility and understanding of food labels, and avoiding misleading labels;
- Simplifying technical requirements and removing unnecessary administrative burdens (European Commission, 2008h, pp. 7-8).

Table 4.1 shows the overall costs and benefits of introducing mandatory nutrition labelling requirements to all food companies operating in the EU's single market.

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<sup>55</sup> The proposal was discussed in the following advisory groups: the Advisory Group on the Food Chain and Animal and Plant Health; the European Consumer Consultative Group; the Consumer Policy Network of senior consumer officials; and the Health Policy Forum.

Table 4.1 Cost and benefits of mandatory nutrition labelling

<b><i>Level</i></b>	<b><i>Costs</i></b>	<b><i>Benefits</i></b>
<b><i>Consumers</i></b>	Not enumerated	<ul style="list-style-type: none"> <li>• Improves comparability of products</li> <li>• Reduces information asymmetry between consumers and food manufacturers</li> <li>• Likely to help consumers make better informed decisions about their diets</li> </ul>
<b><i>Food manufacturers</i></b>	<ul style="list-style-type: none"> <li>• Greater costs for SMEs, which might compromise their competitiveness in the food industry</li> <li>• Costs to industry related to printing labels and collecting nutrition information</li> </ul>	<ul style="list-style-type: none"> <li>• Improved legal certainty and harmonised implementation</li> <li>• Level playing field between manufacturers</li> <li>• Decreasing costs of selling products in different EU countries</li> </ul>
<b><i>Member States</i></b>	Not enumerated	<ul style="list-style-type: none"> <li>• Might make enforcement easier due to standardisation</li> </ul>

*Source:* European Commission, 2008h.

As can be seen from table 4.1, the costs of mandatory EU food labelling regulation fall primarily at company level, concentrating the costs on the food industry and distributing the benefits to consumers. The introduction of mandatory nutrition labelling confers clear benefits to consumers because it makes it easier for consumers to compare different products on the basis of their nutritional quality, and enables consumers to make better informed decisions when buying pre-packaged food. It could potentially also have positive impacts on public health in the EU. According to the World Health Organisation (WHO),



lifestyle diseases cause 77% of the disease burden in Europe. In 2000, the WHO estimated that approximately 56 million people died in 2000 in Europe because of bad nutrition (out of a total of ca. 136 million people in 2000 dying in Europe). Using obesity in the EU's 27 member states as an example, adult obesity occurrence was estimated to be 15.7% in 2005, and costs the public purse of EU25 (excluding Bulgaria and Romania) approximately €40.5 billion per year (WHO, 2004). On top of this are the costs associated with cardiovascular diseases (often caused by obesity), which is estimated to be about €168 billion in EU25 on an annual basis (European Commission, 2008h; Lankhuizen et al, 2007). Providing more information to consumers about the food they eat through improved food labelling is likely, therefore, to increase healthy food choices and to improve public health, and in turn to reduce public money spent on lifestyle diseases. The European Commission's proposal is unlikely to lead to a significant increase in the administrative burden to governments in the EU's 27 member states, as the new rules are expected to be easily incorporated into existing systems of control.

The introduction of mandatory food labelling requirements to all food manufacturers is likely to inflict greater costs on SMEs, which might compromise their competitiveness vis-à-vis larger firms. This is because larger firms benefit from economies of scale, which lowers the cost per-unit of complying with regulation. However, the European Commission's impact assessment finds conflicting evidence for the costs to SMEs. For example, the impact assessment mentions a 1995 study of British SMEs, following the introduction of EU labelling regulation in 1993, which found no significant effects on SMEs' competitiveness (Cumbers et al, 1995). Contrary to this, a more recent study of the US situation finds that the introduction of mandatory food labelling increases the probability of SMEs leaving the food market sector compared to large companies (Moorman et al, 2005). Overall, the introduction of mandatory labelling rules is expected to impose adjustment costs to the food industry related to printing new labels and collecting nutrition information. For example, the proposed requirement to distinguish between saturated and unsaturated fats on food labels might hit sales of food products consisting of

high levels of saturated fat. Saturated fats have been shown to directly increase cholesterol levels, clog arteries, and increase the risk of developing coronary heart diseases or cardiovascular diseases. In lack of clear rules, food companies producing food products with high levels of saturated fat might be inclined not to distinguish between different types of fat on their food labels.

Although the European Commission's proposal introduces costs to food companies, companies producing pre-packed food always have costs related to food labelling that are not only due to legislative requirements. Companies have long used their own labelling schemes and have been obliged to include the following information on their food labels: the name of the product, the list of ingredients, the best before or use-by-date, any special conditions of use, and the name and address of the manufacturer. Labelling changes are caused by various reasons, such as changes in regulation, marketing reasons, recipe changes, and product reformulation. Food manufacturers change their food labels regularly, ranging from several times a year for branded products with a high turnover (such as cereal and soft drinks) to every two-three years for commodity products (such as sugar, salt and flour). The impact assessment estimates that, over a period of three years, about 80% of all companies operating in the EU introduce labelling changes as part of their normal business cycle. The administrative costs of introducing new food labelling regulation are estimated to range from €180 to €913 million, which relate to costs for companies for familiarising themselves with new regulation and collecting the necessary information to put on food labels. The costs associated with label design and approving new labels are estimated to be €2000-4000 for smaller changes, and €7000-9000 if full redesign is necessary (European Commission, 2008i, p. 38). Table 4.2 shows the distribution of costs and benefits of two key provisions of the proposal: mandatory nutrition labelling on front of pack with inclusion of five nutritional elements and establishing a minimum font size.

Table 4.2 Cost and benefits of key provisions

<b>Topic</b>	<b><i>Costs/benefits on food manufacturers</i></b>	<b><i>Costs/benefits to consumers</i></b>	<b><i>Costs/benefits on member states</i></b>
Mandatory nutrition labelling on front of pack with inclusion of five nutritional elements	<u>Benefits:</u> Removes uncertainty on presentation  <u>Costs:</u> Greater costs on SMEs, which might compromise their competitiveness in the food industry  Costs arising from changing labels	<u>Benefits:</u> Helps consumers use nutritional information by providing at a glance information on nutrition  Leads to greater comparability between products, contributing to better consumer choices  <u>Costs:</u> Not enumerated	No change in costs and benefits of enforcement and control
Establish a minimum font size	<u>Benefits:</u> <i>Not enumerated</i>  <u>Costs:</u> Might result in some cost for companies with multi-lingual and small labels	<u>Benefits:</u> Improves consumer understanding of labels  <u>Costs:</u> Not enumerated	<u>Benefits:</u> Easier to implement detailed regulation  <u>Costs:</u> Not enumerated

*Source:* European Commission, 2008i.

As can be seen from table 4.2, the inclusion of five nutritional elements (calories, fat, saturated fat, sugar and salt) on a mandatory basis would have an effect on approximately 80% of all food companies operating in the EU. Around half of these companies would need to obtain data on the content of saturated fats and sugars, and the other half would need to get information about all five nutritional elements. The European Commission estimates that the cost to the food industry taken together for collecting this information would range from

€0.7 billion to €2.3 billion (European Commission, 2008i). Nutritional labelling on front of pack is likely to have a particularly negative impact on the competitiveness of SMEs. Consumers are expected to benefit from more comprehensive information of food products, which is likely to result in better informed dietary choices and have a positive impact on public health. Furthermore, the regulation would result in more uniform presentation of information across different food products, which would make it easier for consumers to compare products. The inclusion of nutritional information on front of pack is likely to have a greater impact at the point of purchase decisions than back of pack information. Front of pack labelling provides consumers with a quick overview of the nutritional components of a given food product. The Commission's impact assessment does not enumerate any costs imposed on member states, but states that member states are likely to benefit from harmonised EU food labelling rules because it is expected to ease implementation and control (European Commission, 2008i).

#### **4.2 Interest group positions and strategies**

Stakeholders' view differ extensively with regard to what kind of information should be given to consumers (number of nutrients displayed), how it should be presented (nutrition information per 100 g/ml and/or portion size), and where it should be displayed on the pack (front or back of pack). The food labelling dossier contains many controversial issues drawing in a diverse set of interest groups. The debate pits consumer and health groups against the food industry; animal welfare and secularist groups against Jewish and Muslim groups; consumer groups against the Malaysian government; and industries against industries. While the overall nature of the dossier entails a conflict scenario envisaged by entrepreneurial politics (the food industry set in opposition to consumer and health organisations), specific provisions involve interest groups politics (pitting industries against industries), and majoritarian politics (animal welfare organisations set against religious groups). This section focuses in on the

positions and lobbying strategies of the food industry, and consumer and health organisations on the general provisions of the dossier. The specific provisions begetting scenarios of majoritarian and interest groups politics are studied in more detail later in this chapter. The main lobbying battle on the food labelling proposal was fought between the food industry, and consumer and health organisations. The NGO side brought together a limited number of organisations with small resources to lobby the EP actively throughout the entire process. These organisations include the European Consumer's organisation (BEUC), the European Heart Network (EHN), the European Public Health Alliance (EPHA), and the European Alcohol Policy Alliance (Eurocare). Whereas BEUC and the EHN lobbied the EP actively by meeting MEPs on a regular basis, EPHA and Eurocare remained largely silent and confined their lobbying activities to sending their position chapter to MEPs rather than having face-to-face meetings.

Unlike environmental groups in the EU (see Chapter 3), the number of active consumer groups has dwindled over the years with BEUC being the only active EU-wide consumer group present in Brussels (Greenwood, 2011, p. 161). The nature of BEUC as a confederation means that it is less able to act as speedily as Green10 NGOs, the latter mainly representing 'cheque-book members'. Similar to many Green10 organisations (with the exception of Greenpeace), BEUC receives the bulk of its funding from the EU's budget, enabling them to employ 34 full time staff in their Brussels office. It also draws extensively upon the resources from its 42 national consumer organisations from 31 European countries (BEUC, 2012). During the first reading of the food labelling dossier, BEUC's lobbying work towards the EP was mainly undertaken by the British consumer organisation 'Which?' as the person in charge of the file at BEUC was on leave. Compared with lobbying from consumer and health organisations, there was 'an unprecedented amount of lobbying' <sup>56</sup> from

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<sup>56</sup> Interview, MEP assistant, 22 February 2011

industry.<sup>57</sup> The food labelling dossier provided an uneven playing field between the food industry and consumer and health organisations. Consumer and health interests' resources and lobbying activity paled in comparison with the food industry. The consumer and health organisations' potential to influence the EP's report was further limited because they took up a position reflecting their ideal outcome, which proved difficult to garner parliamentary support for.

The majority of active food and drink industries were both lobbying on their own and through their European trade association, FoodDrinkEurope (until 2011 known as the CIAA). FoodDrinkEurope represents the largest manufacturing sector in Europe, and is a major employer and exporter in the EU. Similar to most EU industry associations, FoodDrinkEurope has a hybrid organisational structure bringing together 26 national federations, 22 major food and drink companies, and 29 European sector associations (FoodDrinkEurope, 2012). FoodDrinkEurope closely monitors the EP's activities and maintains close contact with MEPs and MEP assistants from relevant parliamentary committees, which allow them to inform MEPs about the impact EU legislation has on the food industry (Grant & Stocker, 2009, p. 239). FoodDrinkEurope has one person employed with the sole responsibility of building and nurturing contacts with the EP.

#### *4.2.1 The position of the food industry versus consumer and health groups*

The position of the food industry and consumer and health organisations varies widely concerning the favoured labelling scheme (GDA and/or traffic light), number of nutrient displayed on labels, and country of origin. As can be seen from table 4.3, the food industry supports the European Commission's suggestion to make it mandatory to include the GDA icon for calories (energy) per portion on the front of pack. In contrast, consumer and health groups want

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<sup>57</sup> The list of active industries is long, including organisations and companies such as the Confederation of Food and Drink Industry (FoodDrinkEurope), Unilever, European Association of Craft, Small and Medium-sized Enterprises, European Snack Association (ESA), Ferrero Rocher, Kellogg, McDonald, Danone, Nestle, International chewing gum association (ICGA), European Wine Spirits Organisation (CEPS), the European Breakfast Cereal Association (Ceereal), and European Dairy Association (EDA).

to combine GDA with a traffic light label for key nutrients, where key nutrients are colour-coded with red, amber and green on the front of packs to show whether products are high, medium or low in potentially harmful ingredients. Regarding the number of nutrients displayed on front of pack, consumer and health groups are campaigning for mandatory front of pack information on energy, salt, sugar, total fat and saturated fat expressed per 100 g/ml (but not per portion size).

Table 4.3 Positions of interest groups on key provisions

	<i>Food industry</i>	<i>Consumer and health organisations</i>
<i>Derogations</i>	Exclude all alcohols, seasonal confectionary, handcrafted food, non-pre-packed food, glass bottles, and packaging or containers of a surface area less than 80 cm <sup>2</sup>	Include all alcohols
<i>Nutritional information</i>	<p><i>Mandatory Front of Pack (FoP):</i> Energy content (calories) expressed per portion size and per 100 g/ml</p> <p><i>Back of pack (BoP):</i> Big 8 nutrients (energy, protein, carbohydrate, sugars, fat, saturated fat, fibre, and sodium)</p> <p>Voluntary labelling of trans fats</p>	<p><i>Mandatory FoP:</i> Energy content, saturated fat, sugar, salt expressed per 100 g/ml shown by a traffic light labelling scheme</p> <p><i>BoP:</i> Everything that is on FoP + protein, total fat, trans fatty acids, carbohydrates, fibre, added sugar and fibre</p> <p>Mandatory labelling of trans fats</p>
<i>Country of origin</i>	Opposed to mandatory labelling of country of origin for main ingredients	In favour of mandatory labelling of country of origin for main ingredients
<i>A traffic light labelling scheme</i>	Against a traffic light labelling scheme	For a traffic light labelling scheme
<i>National labelling systems</i>	Against	For

Source: BEUC (2011); BEUC, EHN & EPHA (2008); FoodDrinkEurope (2009a, 2009b, 2011b).

The food industry suggested to only require companies to print information on calorie content per portion on the front of pack, and to include the big 8 nutrients (energy, protein, carbohydrates, sugars, fat, saturated fat, fibre and sodium) on back of pack, expressed per 100 g/ml, with the possibility of using portion size as additional information. FoodDrinkEurope believes that 'portion sizes are critical to improve consumer understanding and should be addressed appropriately by the Regulation based on proposals from industry' (FoodDrinkEurope, 2009b). Consumer organisations contend that providing nutritional information according to portion size could leave too much scope for variation and, moreover, lead food companies to provide portion information using idealistic, rather than realistic, portion sizes.

Regarding the issue of trans fat (which raises the risk of coronary heart diseases), the food industry is in favour of labelling trans fat on a voluntary basis. They referred to findings by the European Food Safety Authority's (EFA), which show that trans fat does not pose a public health hazard as 'most EU countries are already below the WHO [the World Health Organisation] recommendation of 1 per cent of total energy' (FoodDrinkEurope, 2011b). In contrast to the food industry, health organisations are fervent supporters of mandatory trans fat labelling. Lastly, the discussion over whether country of origin labelling for all food stuffs should continue to be voluntary or should be made mandatory pitted consumer groups against the food industry. The current situation is that the origin is only mentioned on a voluntary basis unless the consumer is misled without its indication. Country of origin is already compulsory for certain foods, such as beef, honey, olive oil, fresh fruit, and vegetables. Generally speaking, consumer groups and the agricultural sector are in favour of mandatory labelling of origin for main ingredients, while the food industry and SMEs are opposed to it, owing to frequent changes in the supply chain. A representative from Unilever uttered that mandatory country of origin labelling would 'force us to change our labels every time we switch the origin of our ingredients and would generate more packaging waste'.<sup>58</sup>

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<sup>58</sup> Interview, Unilever, 8 February 2011



#### *4.2.2 The strategies used by the food industry, and consumer and health groups*

Lobbying of the EP was biased in favour of the food industry, who were both more numerous and able to hold more events in the EP compared with consumer and health organisations. Various industry representatives had stands outside the MEP canteen giving out free food and lobbying folders. For instance, the European breakfast cereal association (Ceereal) had a breakfast stand in the EP, where they gave out free breakfast to anyone passing by as well as a little sales talk on why it is important to depict nutrition information by portion size rather than by 100g/ml. Ferrero Rocher gave free chocolate boxes to key MEPs. One MEP assistant reported that Ferrero Rocher sent his MEP a massive chocolate Easter egg. FoodDrinkEurope had a GDA information stand in the EP from 10-12 November 2009 (FoodDrinkEurope, 2009a). Prior to the event, the public affairs company Fleishman-Hillard (hired to assist FoodDrinkEurope with its lobbying activities) sent an email invitation to MEPs with the words:

The CIAA [FoodDrinkEurope] invites you to visit its GDA Information Stand from 10 - 12 November (11am - 3pm) in the ASP Building of the EP (ground floor to the right of the entrance). Print out the questionnaire via the link below, complete and return it to the GDA Stand, and you will be entered into a prize draw to win a hamper of GDA labelled food products (FoodDrinkEurope, 2009a).

Although MEPs are probably unlikely to change their minds upon receiving small gifts; free chocolate or free lunches can be used as a hook to catch MEPs' attention and make them come to lobby events. A representative from BEUC lamented that, 'we [BEUC] have nothing to offer MEPs except information; the only thing we can give to MEPs is our position and arguments'.<sup>59</sup> Although the food industry had more physical presence in the EP, MEPs and MEP assistants doubted the effectiveness of food stands and goodie-bags. As one MEP assistant explained:

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<sup>59</sup> Interview, BEUC, 16 March 2011

I don't think lobbyists' stands in Parliament are very effective. There are so many stands here and assistants just drop by a stand and get free food without paying much regard to the issue. If you don't work for the environment committee, why would you pay attention to it? <sup>60</sup>

While the food industry was more present in the EP during the food labelling discussions than consumer groups, both lobbying camps claimed that their positions had scientific grounding. Both industry and consumer groups sought to justify their position with reference to scientific studies. The problem is that the current scientific studies on consumers' favoured labelling schemes often reach contradictory conclusions or are incomparable. Whereas BEUC would refer to research that shows that consumers find colour-coding labels and Front of Pack nutrition schemes the easiest way to make informed purchasing choices, FoodDrinkEurope would refer to studies concluding that GDA labelling combined with a nutritional table provided consumers with the best information at-a-glance (BEUC, EHN, & EPHA, 2008; FoodDrinkEurope, 2011b; Trollope, 2011). Research about consumer preferences sits in between, what interest group scholars call, technical and political information because it both provide scientifically-based information and information about public opinion. Perhaps this type of information is better labelled 'evidence-based information', as it provides decision-makers with data driven arguments, and facts and figures about consumer preferences (Chalmer, 2013, 55). The food industries and consumer and health organisations' use of science to support their positions show that scientific findings can be regarded as only one of a number of belief systems. 'Like any other kind of science, nutrition science is more a matter of probabilities than of absolutes and is, therefore, subject to interpretation' (Nestle, 2007, p. 28). Food industries use science to oppose regulatory measures that might affect the sales of their products negatively. Consumer and health organisations use science to question the healthiness and safety of food products, and to improve consumer comprehension.

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<sup>60</sup> Interview, MEP assistant, 18 May 2011

The food industry's effort to influence EU food regulations go well beyond the day-to-day lobbying of EU decision-makers. As Nestle says, 'they go right to the heart of nutrition as a profession' (2007, p. 111). The food industry is financially involved with academic experts in nutrition and health. Funding research, conferences, and academic journals is part of the food industry's corporate strategy. A large proportion of academic research is dependent upon external funding, and sponsorship by industry is common. In question is whether or not research on health and nutrition is compromised by funding from the food industry? A yet more worrying question is if industry funding of research affects the type of research being done and the results. The answers to these questions are by no means straightforward. Academics often get around the issue by disclosing their sources of funding and by subscribing to self-imposed transparency statements. The food industry uses academic findings, if favourable, to promote their products. In the EU, the food industry draws extensively on the European Food Information Council (EUFIC) to conduct scientific studies. As a representative from Nestle expressed:

The EUFIC research on food information was crucial for our work. Robust and EU-wide peer-reviewed consumer research has backed up our argumentation. Our role is to show that the evidence is there and to inform decision-makers about the evidence. For instance, EUFIC conducted a large pan-European survey on consumer understanding of GDA and traffic light, which showed that consumers found almost no difference between the two.<sup>61</sup>

EUFIC was set up in 1995 by the food industry to provide the food industry with 'science-based information on the nutritional quality of food and safety of foods' (EUFIC, 2012). EUFIC's research findings are reviewed by a scientific advisory board and editorial board of academics prior to dissemination to ensure that the information is 'representative, factually correct and truthful' (EUFIC, 2012). Both the food industry and consumer and health groups drew on outside and inside lobbying and provided similar types of information to MEPs. Although NGOs are often assumed to be restricted to the use of outside tactics, the

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<sup>61</sup> Interview, Nestle, 13 April 2011

consumer and health groups interviewed for this chapter concentrated their lobbying efforts on inside tactics and direct contact with MEPs and their staff. Outside tactics – such as using the media, arranging conferences, mobilising citizen support through petitions and manifestations - were not seen as ‘outsider tactics’, nor were they only taken up by consumer and health organisations; they were also used frequently, if not more, by the food industry. Both the food industry and consumer and health groups used the Brussels newspaper media (such as European Voice and EurActiv) to publish position papers, and organised workshops inside the EP. None of the interviewed interest group representatives mobilised citizen support through petitions or manifestations.

### **4.3 The EP policy process and outcome**

The EP's scrutiny of the European Commission's food labelling proposal went through a bumpy road of two parliamentary terms and three years. The proposal was examined by the committee of ‘Environment, Food Safety and Health’ (ENVI) as the responsible committee and ‘Agriculture and Rural Development’ committee (AGRI), and the ‘Internal Market and Consumer Protection’ (IMCO) committee as the opinion-giving committees. In the sixth parliamentary term (2004-2009), the EP plenary voted to refer the ENVI report back to the committee for renewed scrutiny as the number of suggested amendments was extremely high. The newly elected parliament therefore started its scrutiny of the proposal afresh in September 2009 with the same rapporteur in charge, German EPP MEP Dr Renate Sommer. The following sections provide an overview of the EP's main changes introduced to the proposal at the different stages of the EP's decision-making process in the seventh parliamentary term (2009-2014).

#### *4.3.1 The EP's first reading*

Both inside and outside the EP, the rapporteur on the food labelling proposal is perceived to be very competent and knowledgeable about nutritional issues owing to her educational background, which counts a PhD in international nutrition and degrees in agriculture. Among the interviewed food industries, and consumer and health groups, the rapporteur was thought to be very scientific in her approach. The majority of the interviewed interest groups found that the rapporteur gave less weight to positions lacking scientific evidence. As a representative from UEAPME explained:

Dr Sommer [the rapporteur] asked for a scientific substantiation when we put forward our position to her. She would refuse our demands if they were only based on wishful thinking rather than scientific evidence. She has a science background and work from a scientific approach. Yet, other MEPs work from a more populist approach concerned about attracting media attention and building a public image.<sup>62</sup>

Despite her scientific background, the rapporteur had earlier made public her scepticism to mandatory labelling rules that would 'nanny and gag consumers' (European Voice, 11 March 2010). Her position, reflected in her ENVI draft report, was closer to the views of the industry than that of consumer and health groups. She amended the European Commission's text so that only the number of calories had to feature on the front of pack, and she resolutely opposed traffic-light labels. Table 4.1 shows the EP's changes introduced to the European Commission's proposal at the EP's first reading. As can be seen from the table, the rapporteur largely supported the industry's position on key aspects of the dossier by accepting that:

- Consumers would be overwhelmed with information if too many nutrients were to appear on the front of packaging

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<sup>62</sup> Interview, UEAPME, 15 March 2011

- The minimum font-size requirements would create bulkier packaging, more waste, and potentially larger portions
- Member states should not be allowed to adopt national rules governing the way in which particulars are shown as it would fragment the internal market
- Alcopops should be excluded from the scope of the regulation
- Country of origin labelling should remain voluntary.

Unlike the food industry, the rapporteur favoured that nutrition information should be expressed per 100 g/ml with portion size being additionally. The rapporteur's report recommended deleting entirely an article relating to nutrient profiles, and thereby attempting to revoke the present regulation on health and nutrition claims. The regulation on health and nutrition claims was passed in 2006 to ensure that consumers could rely on scientifically accurate information regarding any food or drink product on sale in the EU. This regulation requires foods to display appropriate nutrient profiles to prove claims such as 'low fat', 'helps your body resist stress' or 'reduces cholesterol' (European Parliament and the Council of the European Union, 2006). However, the rapporteur argued that the nutrition profiles described in this regulation were not based on scientific findings, but only set arbitrarily by the European Commission and should be deleted. According to the rapporteur, arbitrary legislation on food would mean more red tape, legal uncertainty, distortions of competition, and would jeopardise the balanced nutrition of the population of Europe (European Parliament, 2010h, p. 136). The rapporteur's suggestion to delete the article on nutrient profiles was, however, narrowly defeated by the full chamber.

Table 4.4: Changes to the Commission's proposal, first reading

	<i>Commission proposal</i>	<i>ENVI draft report</i>	<i>ENVI report</i>	<i>Plenary outcome</i>
<i>Derogations</i>	Alcohol, but not alcopops	All alcohols incl. alcopops + non pre-packed food, glass bottles, and packaging or containers of a surface area less than 80 cm <sup>2</sup>	Same as ENVI draft report	Same as ENVI draft report
<i>Nutritional information</i>	<p><b>Front of pack (FoP):</b> energy, fat, saturates carbohydrates, sugars and salt expressed as amounts of per 100 g/ml</p> <p><b>BoP:</b> no requirements</p>	<p><b>FoP:</b> only energy content expressed kilocalories per 100 g/ml with portion additionally.</p> <p><b>BoP:</b> no requirements</p> <p>Nutrient profiles deleted</p>	<p><b>FoP:</b> Only energy</p> <p><b>BoP:</b> Other mandatory listed ingredients: protein, carbohydrates, fibre, natural and artificial trans fat</p> <p>Nutrient profiles deleted</p>	<p><b>FoP:</b> energy, fat, saturates, sugars and salt expressed as amounts of per 100 g/ml</p> <p><b>BoP:</b> Amount of energy + other mandatory listed ingredients (protein, carbohydrates, fibre, natural and artificial trans fat)</p> <p>Nutrient profiles preserved</p>
<i>Traffic light</i>	Not included	Not included	Not included	Not included
<i>National labelling systems</i>	Member states <b>can</b> adopt national labelling rules	Member states <b>cannot</b> adopt national labelling rules	Member states <b>can</b> adopt national labelling rules	Member states <b>cannot</b> adopt national labelling rules

Source: European Commission (2008e); European Parliament (2009c, 2010g, 2010h).

The debate on food labelling was beset with misinformation on both the modalities of nutrient profiles and the traffic light scheme. For instance, it was argued that the packaging of Nutella, the Ferrero hazelnut spread, would have to be labelled ‘dangerous for health’ or ‘enhances obesity’. Consumer and health organisations claimed that this information is incorrect. As a representative from BEUC explained, ‘Nutrient profiles will neither ban any food, nor oblige manufacturers to label them as dangerous. Instead, they will ensure that a claim made to promote food is not misleading’.<sup>63</sup> The purpose of nutrient profiles is to prevent the industry from making exaggerated claims by advertising their products as healthy when the product contains high amounts of saturated fat, salt or sugar.

During the ENVI amendment phase, several MEPs from the Greens, S&D, and ALDE groups put forward suggestions to introduce a traffic light system. Amendments that suggested to make traffic light labelling mandatory were, however, rejected at the committee vote with a narrow margin of 30 MEPs voting for and 32 MEPs against. While the final ENVI report clearly favoured the views of the food industry, several of the rapporteur’s initial amendments were rejected, such as provisions concerning country of origin and national labelling systems. The final ENVI report endorsed the European Commission’s line that member states are allowed to adopt national labelling rules. Furthermore, the committee voted for making country of origin labelling of meat, fish, poultry, and dairy products mandatory, even when used as an ingredient in processed food.

The ENVI report was voted on by plenary in June 2010, where MEPs rejected the traffic light system, but adopted the European Commission’s suggestions to feature mandatory nutritional information and guideline daily amounts on front of pack (energy, fat, saturated fat, sugar) per 100 g/ml (and not per portion size as favoured by the food industry). The plenary endorsed ENVI’s amendment recommending to make country of origin labelling

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<sup>63</sup> Interview, BEUC, 16 October 2011



mandatory on meat, fish, poultry, and dairy products, but voted against ENVI's suggestion to allow member states to adopt their own national labelling system.

Although the EP's first reading position tilted more towards the preferences of the food industry than that of NGOs, the food industry did not get it all its way. The food industry was, for instance, not supportive of front of pack labelling of the big five (energy, fat, saturates, sugars and salt), and an extension of country of origin labelling to meat, fish, poultry and dairy products. While policy did not entirely shape politics, the policy process certainly did. The food industry was more active during the policy process than NGOs. Several interviewees reported that consumer and health groups were more active prior to the plenary vote than at the committee stage. As an ALDE policy advisor explained:

I felt that there was a lack of campaigning from the consumer side, whereas there was excessive lobbying from the industry side. The consumer organisations did a big attempt in convincing MEPs about the traffic light systems before the plenary vote, but they were not that active at the committee stage.<sup>64</sup>

At the EP's second reading, lobbying from consumer and health organisations was even more limited. Generally, lobbying is most intense at first reading. On the contrary, at second reading – when no new amendments can be introduced that have not been accepted by the EP's plenary at first reading – lobbying is usually limited. This was, however, not the case on the food labelling proposal as the food industry was lobbying the EP actively at both the first and second readings.

#### *4.3.2 The EP's second reading and final outcome*

It is difficult for interest groups to influence the EP's position during second reading. This is because:

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<sup>64</sup>Interview, ALDE policy advisor, 23 February

Everyone knows that Parliament only has 3 months to find a common position. Even though lobbyists are trying to bring in new aspects, they know that they cannot stop the whole process at this stage. Conciliation is even worse for lobbyists. In the first reading Parliament is more open to lobbying as we are building our position. When we are far into the process, we are not interested in lobbying. You reach a point where you have to finish and get legislation finalised.<sup>65</sup>

MEPs have usually made up their mind in the EP's second reading, and the main role of interest groups is to ensure MEPs do not forget about amendments voted through at first reading. Table 4.2 shows the EP's changes introduced to the Council's common position. As can be seen from the table, the final policy outcome requires food labels to state the energy content and amounts of fat, saturates, carbohydrates, protein, sugars, and salt in a legible table on the packaging, and in the same field of vision. All this information must be expressed per 100 g/ml, and may additionally be expressed per portion. Labelling may be accompanied by GDA, but unlike the European Commission's proposal, this remains voluntary.

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<sup>65</sup> Interview, EPP advisor, 24 March 2011

Table 4.5: Changes introduced, second reading

	The Council	ENVI draft report	ENVI report	Plenary
<i>Derogations</i>	All alcohols, and containers of with the largest surface area less than 10 cm <sup>2</sup>	All alcohols, containers of with the largest surface area less than 80cm <sup>2</sup> + seasonal confectionary, and handcrafted food	Same as ENVI draft report	All alcohols, handcrafted food, and containers of with the largest surface area less than 25 cm <sup>2</sup> (e.g. chewing gums)
<i>Nutritional information</i>	<p><b>FoP &amp; BoP:</b> no special requirements</p> <p><b>Mandatory labelling anywhere on pack:</b> energy, fat, saturates, carbohydrates, sugars, protein and salt per 100 g/ml in same field of vision, with portion size additionally</p> <p>Other: Meat from slaughter without stunning should <b>not</b> be labelled as such</p>	<p><b>FoP:</b> energy, fat, saturates, sugars and salt expressed as amounts of per 100 g/100 ml</p> <p><b>BoP:</b> Energy value combined with mandatory listed ingredients (protein, carbohydrates, fibre, natural and artificial trans fat) per 100 g/ml, portion size additionally.</p> <p>Other: Meat from slaughter without stunning should be labelled as such</p>	<p><b>FoP:</b> not mandatory</p> <p><b>BoP:</b> same as ENVI draft report, second reading</p> <p>Other: Meat from slaughter without stunning should be labelled as such</p>	<p><b>FoP &amp; BoP:</b> no special requirements</p> <p><b>Mandatory labelling anywhere on pack:</b> Energy value together with the amounts of fat, saturates, sugars, and salt per 100 g/ml in the same field of vision</p> <p>Other: Meat produced from special slaughter should <b>not</b> be labelled as such</p>
<i>National labelling systems</i>	Deleted	Deleted	Deleted	Allowed

Source: Council of the European Union (2011); European Parliament (2011a, 2011b, 2011c).

The presence and type of vegetable oil (such as palm oil) will need to be specified in the ingredient list. Regarding trans fats, the European Commission will within three years issue a report on the presence of trans fats in food in the EU accompanied by a legislative proposal if deemed necessary. Country of origin – which already applies to beef, honey, olive oil and fresh fruit and vegetable – is extended to swine, sheep, goat, and poultry meat. The EP wanted to further extend country of origin to milk and dairy products and other single ingredient products, but this was not supported by the Council. In line with common EU practice it was decided that the European Commission must conduct an impact assessment to consider the feasibility and costs of extending country of origin labels to the products suggested by the EP.

Agreement on a compromise text was reached between the Council and the EP on 14 June 2011, which the EP had to ‘rubberstamp’ in plenary on 16 July 2011 (EurActiv, 4 July 2011). The compromise agreement (text as a whole) was endorsed by the EP with 606 (89%) voting in favour, 46 (7%) against, and 26 (4%) abstaining (VoteWatch, 2011a). FoodDrinkEurope welcomed the vote, but regretted that ‘certain issues of importance to Europe’s food manufacturers were not given due consideration in the final outcome or that several issues will be decided upon only when the implementing rules are established’ (FoodDrinkEurope, 2011a). BEUC also welcomed the result, but did not think the adopted regulation would enable consumers to choose the healthiest products at a glance. They considered the EP’s first reading rejection of the traffic light scheme a real blow for consumers (BEUC, 2011).

## **4.4 Role and influence of interest groups on key provisions**

Although the EP's first and second reading outcomes tilted more towards the preferences of the food industry than that of NGOs, the food industry did not get it all its way. Both the food industry and consumer/health groups had some of their views reflected in the position adopted by the Parliament, demonstrating that public policy is not a zero-sum game. The food labelling regulation is a large piece of legislation including a large number of issues. The remainder of this paper focuses in on four specific issues, in which both the food industry and NGOs played a key role for the EP discussions and outcomes. These are discussions over: a traffic light scheme on food labels, exemptions from the regulation, labelling of sausage casings, and labelling of non-stunned meat.

### *4.4.1 Entrepreneurial politics: the traffic lights versus Guideline Daily Amounts*

One of the most controversial issues in the food labelling proposal during the EP's first reading was whether or not to introduce mandatory nutrition labelling using traffic light colour coding. The traffic light system allows consumers to see at a glance whether a food product contains high, medium or low levels of fat, sugar and salt in a 100 gram portion. A red light would be displayed on products high in fat, sugar or salt, and amber and green for lower amounts. The European Commission had considered, but excluded, a mandatory traffic light system as it was concerned it would lead to oversimplification, although its proposal allowed for such schemes to run in parallel at national level. Instead, it proposed that food labels should feature mandatory nutritional information and GDA.

The food industry was opposed to the European Commission's proposal to allow for national additional forms of expression as they argued it would lead to fragmentation of the internal market. The food industry favours labels based on GDA, which tells consumers how many calories they get from a portion as a percentage of what a typical healthy adult should eat on a 2000 kcal daily diet. GDA is a measure developed by the food industry, and does not come without its critics. GDA is based on how many calories a moderately active 40 year old woman is recommended to eat on a daily basis, and currently there is no GDA for children. Furthermore, basing GDA on portion size is problematic as portion size may vary from product to product, making it difficult for consumers to compare one product with another. Consumer and health NGOs have, therefore, campaigned for combining GDA with a traffic light label for key nutrients, where key nutrients are colour-coded with red, amber and green on the front of packs to show whether products are high, medium or low in potentially harmful ingredients. They argue that the GDA system on its own does not allow a quick understanding of whether a nutrient is present at a low, medium or high level (BEUC, et al., 2008).

The traffic light scheme is currently being used voluntarily by many British retailers (such as Waitrose, Sainsbury's, Marks & Spenser, ASDA and Co-opt) and German retailers (such as Frosta), who favour introducing it at the EU level. The food industry was, however, strongly opposed towards the traffic light scheme due to fears that it would demonise food into 'good' and 'bad' foods and not provide consumers with the information needed to choose a balanced diet based on individual needs. As a representative from Unilever remarked, 'if people only were to consume green products, they would not have a healthy diet'.<sup>66</sup> It is, however, in the food industry's interest to convince consumers that there are no such things as good and bad food, and that

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<sup>66</sup> Interview, Unilever, 18 February 2011

balance and variety are essential parts of a healthy diet (Nestle, 2007, p. 21). If any regulatory decisions are likely to hamper the sales of companies' products, they are highly incentivised to lobby decision-makers intensively to avoid any regulatory shackles. Products that would get red lights for most of its key ingredients – if a traffic light scheme was adopted – is likely to influence people's perception and consumption of the product, and economically hurt the business selling the products. One could easily imagine that a traffic light system would hit lucrative sales of junk food. Food producers and certain food retailers' divergent views on the benefits of the traffic light system highlight the importance of distinguishing between firms operating at different stages of, what political economy scholars call, the production chain (Dicken, 2003; Henderson, Dicken, Hess, Coe, & Yeung, 2002; Jones, 2005). The production chain comprises producers, traders and retailers operating on a global scale across national boundaries and in different national locations (Falkner, 2009, p. 28). Production chain analysis identifies potential sources of tension between actors situated at different stages of the production chain. Conflicting economic objectives among members of the production chain may give rise to tension and conflict. For instance, a retail association may boycott a food producer, who refuses to fair trade. Or national retailers may support a traffic light scheme on the products they sell in their locality, whereas food manufacturers might fear that it will damage the reputation of their products. The example illustrates that the a priori assumption of business unity is problematic because significant differences may exist between corporate actors at different levels of the supply chain.

While the European Commission's proposal did not include suggestions for a traffic light, the issue was put back on the agenda in the EP. Several MEPs from ALDE, S&D, the Greens/EFA and GUE/NGL submitted amendments calling for mandatory front of pack nutrition labelling using colour coding. Many of these amendments were a direct copy and pasting of amendments presented in position papers to MEPs

by consumer and health groups. BEUC and the EHN were able to show me a list of amendments they had sent to MEPs, many of which were subsequently put forward by ‘friendly’ ENVI MEPs (using the exact same wording and justification). Amendments on introducing a mandatory traffic light system sparked lively and contentious debate both inside and outside the EP, and overshadowed other important issues. Despite its prevalence in the media and in the EP committee and plenary debates, amendments favouring mandatory traffic lights for foods were defeated at first reading by both ENVI (32 voting against, and 30 for) and the plenary (398 voting against, and 243 for). The EP also opposed the European Commission’s proposal to allow such schemes to run in parallel at the national level, although this was not supported by the Council and excluded in the final legislative act. At the EP’s second reading, the possibility for national forms of presentation was, however, included.

MEPs’ rejection of colour-coded food labels was seen as a major victory for the food industry who had lobbied hard to oppose such amendments. Consumer and health organisations accused MEPs for caving in to industry pressure (EurActiv, 25 June 2010). It is, however, dubious whether or not the traffic light scheme would have been adopted without the heavy lobbying from the food industry. The plenary vote on the traffic light amendments showed that many of the political groups, particularly ALDE and the S&D were internally divided on the issue. Several S&D assistants and policy advisors claim that some representatives from the food industry misinformed on the modalities of the traffic light:

There was a lot of misinformation flying around. We wanted traffic lights for energy and four main nutrients. There was heavy lobbying from the food industry against colour coding – and rumours and misinformation were deliberately circulated. For instance, it was argued that milk and apple juice would be given a red point due to their fat respectively sugar content, and that diet coke would be given a green point. However, milk



and fruit juice would not have been covered by a colour coding regime, but some Members seemed unaware of this.<sup>67</sup>

Many MEPs questioned its utility right from the beginning because mandatory traffic labelling does not exist in any member state, and those MEPs in favour of the traffic light system were under pressure to toe their EP group line. Rather than influencing the final outcome, ‘lobbying helped MEPs forming their arguments, and to alert MEPs to the issue’.<sup>68</sup> Although consumer and health organisations lost the traffic light vote, they managed to encourage MEPs to put forward amendments on the issue, and thereby prompting a debate. As a representative from BEUC explained:

I think the MEPs [favouring the traffic light system] would have had a tough time without our support. We have not done the work for them, but we helped these MEPs building their arguments. We approached MEPs and asked if they would be willing to table an amendment on the traffic light. They used our arguments and we met with them to provide them with arguments.<sup>69</sup>

Together with legislative allies, consumer and health organisations organised an EP event on 3 February 2010, taking place one and half month prior to ENVI’s vote on the dossier. The event included speakers from BEUC, Frosta (German producer), ASDA (UK supermarket chain), AOK Health Insurers (the largest health insurance company in Germany), the European Heart Network, the EU Food Law Magazine, Glenis Wilmot (the S&D shadow rapporteur), and the EPP rapporteur’s assistant. All of the invited interest groups favoured the introduction of a colour coding scheme (the traffic light) and presented research, conducted by themselves, showing that consumers favour a colour coding scheme (EPHA, 2010). The working relationship between consumer and

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<sup>67</sup> Interview, EP policy advisor, 22 February 2011

<sup>68</sup> Interview, ALDE advisor, 23 February 2011

<sup>69</sup> Interview, BEUC 16 March 2010

health NGOs and MEPs favouring the traffic light system (particularly the S&D, ALDE and Green shadow rapporteurs) amounts to what Hall and Deardorff define as a 'legislative subsidy' – organised interests play the role of adjuncts to staff for friendly legislators.

#### *4.4.2 Client politics: derogations*

One area in which direct influence from the food industry on the EP's first and second reading outcomes could be observed was the adoption of amendments seeking to exempt specific food and drink products from the scope of the regulation. All 26 interviewees in this case study agreed that interest groups did not influence the very thrust of the legislation, but had an impact on the technical details of the legislation. Lobbying from the food industry 'had a big impact on decisions [to grant exemptions], for example, a special exemption for gift-wrapping was not an issue at all until we got a lobby letter from the food industry and suddenly it was an issue'.<sup>70</sup> The issue of exemptions corresponds to Wilson's client politics category, in which the benefits of regulation flows to a small segment of society and the costs are widely dispersed. The expectation is for potential cost-bearers to be influential, quiet lobbying, and quick passage of regulation with limited public discussion.

Several products that had not been excluded in the European Commission's proposal were granted an exemption in the EP's first and second reading reports, such as exemptions for chewing gum packages, non-prepacked food, and alcopops. A lobbyist representing Wrigley explained how they managed to get the rapporteur to launch an amendment seeking an exemption for chewing gum. As the interviewee explained, 'this is a typical lobbying example of how a very small sector is completely forgotten by MEPs and, therefore, has to lobby to get an

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<sup>70</sup> Interview, Greens/EFA MEP, 24 May 2011

exemption'.<sup>71</sup> UEAPME was in the strong opinion that they had managed to exclude non pre-packed food from the regulation because of their lobbying interventions. As a UEAPME representative explained, 'I doubt that our amendment would have been put forward by the rapporteur and other MEPs had we not made so much noise'.<sup>72</sup> All 26 interest groups interviewed for the food labelling regulation would always lobby the EP even though their concerns might already be addressed in the European Commission's proposal, as indicated by the quotes below.

The biggest threat is that it will be forgotten. We regularly call MEPs, every other week, before and after the triologue meetings to say that they must remember that they were in favour of including cholesterol during the first reading on the list of voluntary nutrition labelling.<sup>73</sup>

We always lobby the European Parliament even if our position is reflected in the Commission's proposal. If you don't lobby Parliament, you may end up losing your case.<sup>74</sup>

The wine and beer industries were successful at securing an exemption from the scope of the regulation during the European Commission's drafting of its proposal. Early European Commission drafts of the food labelling proposal exempted wine from the regulation's scope but included beer. This was strongly opposed by the beer industry, who wanted equal treatment of all alcoholic beverages. The Brewers of Europe, representing brewers in Europe, had on numerous occasions, unsuccessfully, lobbied the European Commission to secure equal treatment of wine and other alcoholic beverages. In the words of a representative of the Brewers of Europe's:

None of the officials in the European Commission listened to us. In the end, we sent a letter to the College of European

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<sup>71</sup> Interview, Wrigley representative, 18 May 2011

<sup>72</sup> Interview, UEAPME, 15 March 2011

<sup>73</sup> Interview, Hill Knowlton, 18 May 2011

<sup>74</sup> Interview, HORTREC, 5 April 2011

Commissioners, where we highlighted why it is a discriminatory treatment of beers. Barroso and his team recognised why our legal justification was correct, and within 24 hours the proposal was amended. Had we not managed to have our product exempted in the European Commission's proposal, we would have had a hell of job lobbying to get member state and the EP to exclude beers from the regulation.<sup>75</sup>

Because the Brewers of Europe managed to secure an exemption from the scope of the regulation, they were less active in lobbying the EP. This did not mean, however, that the lobbying battle for the alcohol beverage industry was over as the European Commission's proposal excluded all alcohols from the scope of its proposal except alcopops. Both European Commission officials and the majority of MEPs were under the impression that alcopops are made on a distillate basis (such as vodka and whiskey). It was not before the European Spirits Industry (CEPS) made the EP's rapporteur aware that alcopops can also be made from beer and wine that the EP put forward an amendment to exempt all alcohols including alcopops from the scope of the regulation. CEPS was active in lobbying the EP to secure an amendments because they thought the European Commission's proposal would put them at a competitive disadvantage compared with the beer and wine industry. CEPS was convinced that had they 'not lobbied for the exclusion of alcopops, it would not have been excluded in Parliament's first reading position'.<sup>76</sup> The outcome of the alcohol battle is that the European Commission shall produce a report by mid December 2012, in which it addresses whether or not alcoholic beverages should in the future be covered by the food labelling regulation, in particular the requirement to provide information on the energy value. Furthermore, the European Commission has agreed to consider the need for a definition of alcopops.

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<sup>75</sup> Interview, Brewers of Europe, 15 April 2011

<sup>76</sup> Interview, CEPS, 28 April 2011

Only one public health organisation lobbied actively for labelling alcoholic beverages, namely the European Alcohol Policy Alliance (a network of public health organisations working on the prevention of alcohol related harm in Europe). Eurocare wants the labels of all alcoholic beverages to contain an ingredient list, any substances with allergenic effect, relevant nutrition information (such as energy value), alcoholic strength, and health warnings. Eurocare believes that such information would enable consumers to make informed choices about their alcohol consumption (Eurocare, 2011). However, Eurocare's preferences only translated into limited lobbying of MEPs and MEP assistants due to limited resources and a feeling of talking to deaf ears:

MEPs are elected to represent the people, but this doesn't always seem to be the case in day-to-day politics of the European Parliament. If you follow how they make decisions, they very rarely side with NGOs and public health organisations, but lean more toward the industry side. We don't have the same means as the industry. We have three people, and our demands are unlikely to go through. We got a bit discouraged from lobbying Parliament actively as we were very active in the beginning and then we got tired as we felt we were talking to deaf ears.<sup>77</sup>

Eurocare found that MEPs were so focused on discussing the utility of the traffic light scheme that it was difficult to attract their attention to other issues, such as alcohol labelling. Much to Eurocare's regret 'MEPs are often so overloaded with work that they are less interested in alcohol labelling'.<sup>78</sup> Eurocare generally found that MEPs were often more preoccupied with the economic costs of labelling alcoholic beverages rather than taking into account the long term costs paid by society as a whole as a result of alcohol abuse, such as costs imposed on the health system for treating alcohol-related diseases and for police control dealing with drunken people. Despite the alcohol industry's lobbying success at securing a complete exemption of alcohol, they found it extremely

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<sup>77</sup> Interview, Eurocare, 17 May 2011

<sup>78</sup> Interview, Eurocare, 17 May 2011

challenging to lobby the EP. Many MEPs particularly from the S&D, GUE/NGL and Greens/EFA groups refused to meet with the alcohol and spirits industry because they saw these industries as unethical. In the words of a CEPS representative:

We represent a sector, which is controversial and we have been refused access to some MEPs in very hostile conditions. It's a pity not to give us the chance to explain ourselves, and we have given up on those 'Ayatollah' MEPs. These radical MEPs don't tend to get their views through because they are uncompromising. The way we deal with it is that we ask for a meeting. If we are not given a meeting, we are not attacking them or displaying them in the media that they don't want to talk with us. We just give up and we regret what has happened.<sup>79</sup>

The alcohol and spirits industry had the rapporteur's support from the outset. The rapporteur is a member of the EP's Beer Club, whose secretariat is run by the Brewers of Europe. The EP's Beer Club is an unofficial intergroup established in 1995 as a forum for discussion and information exchange about issues that affect the EU brewing sector. It holds bi-annual receptions at the Brewers of Europe premises, 'at which Beer Club Members can sample Beers from the country hosting the rotating presidency of the Council of the European Union' (European Parliament Beer Club, 2012). The Beer Club gave the Brewers of Europe the possibility to touch upon the exemption of beer from the scope of the food labelling proposal. Brewers of Europe found that few MEPs were aware that the European Commission's exemption of beer from the scope of its proposal was due to lobbying pressure from the beer industry. As a representative of Brewers of Europe put it:

We didn't really go and knock on MEPs' doors [because our views were reflected in the European Commission's proposal]. No-one is really aware of all this behind this. As you may know Renate Sommer is a member of the beer club – being German she is completely aware of the problem of definition. That is

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<sup>79</sup> Interview, European Spirits Organisation, CEPS, 28 April 2011

why she was adamant to have an exemption across the board covering all alcoholic beverages.<sup>80</sup>

The Brewers of Europe did not find it necessary to lobby the EP because they had successfully sought an exemption from the European Commission's proposal before it was formally published. However, other industries found it paramount to lobby MEPs to ensure that their exempted product would remain exempted. The Union of European Soft Drinks Associations (UNESDA) had managed to secure an exemption for indelibly marked bottles - glass bottles that are intended for re-use and carrying no label, ring or collar - during the European Commission's preparation of its proposal. A representative from UNESDA said:

The exclusion of indelibly marked bottles from the scope of the food labelling regulation is an area where we have had a direct impact as we alone explained to MEPs the strong environmental and economic reasons for such as exemption.<sup>81</sup>

During the EP's scrutiny of the food labelling dossier, several EPP and ALDE MEPs put forward an amendment - sent to them by UNESA during ENVI first and second reading - using identical language and justifications. The text below was included in several of UNESDA's lobbying letters, and used with identical wording by MEPs<sup>82</sup>, putting forward amendments that sought to exempt indelibly marked glass bottles from the regulation's scope:

Glass bottles intended for reuse, which are indelibly marked, are normally sold as single portions (for ex. 200 or 250ml) and have only a limited printable area. A full nutrition declaration would not fit onto this small printable area. Given the high value (in the magnitude of 60 million euros) and the long life (up to 8 years) of existing glass bottle fleets in the EU, either nutrition labelling should be excluded as a mandatory

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<sup>80</sup> Interview, Brewers of Europe, 15 April 2011

<sup>81</sup> Interview, UNESDA, 13 April 2011

<sup>82</sup> Bogusław Sonik (EPP MEP), Oreste Rossi (EFD MEP), Corinne Lepage (ALDE MEP), and Antonia Parvanova (ALDE MEP)

element, or the transition period of at least 15 years should apply to indelibly marked returnable glass bottles' (UNESDA, 15 March 2011).

All interviewees found that the EP had been very industry-friendly in terms of securing exemptions for the specific products mentioned above. The politics of exemptions look a lot like the 'world of capture' in which regulation does not reflect the public interest but rather the immediate concern of specific interests (Lodge & Wegrich, 2012, p. 101). Due to the very specificity of the food sectors seeking exemptions, few if any consumer and health organisations lobbied against the exemptions as the lobbying field on exemptions were solely populated by the food industry. In line with the expectations from Wilson's client politics category, the issue of exemptions was characterised by quiet lobbying and limited public discussion. The various food and beverage industries managed to have their products exempted from the scope of the regulation without much media attention and debate in the EP. Following the expectations of Wilson (1980) and Stigler (1971), in the absence of public interests or 'watch-dog' organisations, client politics produce politics that are most prone to capture.

#### *4.4.3 Interest group politics: the definition of a natural sausage casing*

The old Otto von Bismarck adage 'laws are like sausages – it is best not to see them being made' seems like an apt description of certain aspects of the EP's discussion of the food labelling proposal. One small technical amendment creating division within the sausage casings industry was the question of how to define a natural sausage casing. The issue pitted the natural sausage casing industry against the collagen industry. Thus, it represents a typical interest group politics case, pitting special interests against special interests.



The rapporteur's first draft report included a very specific amendment concerning the designation of sausage casings. The amendment stated that a sausage casing shall be indicated as a 'natural casing' if the casing used in sausage production is derived from the intestinal tract of even-toed ungulates, and 'artificial casing' in other cases. The inspiration from this amendment came from the European Natural Sausage Casing Industry (ENSCA), who found it of utmost importance to make a clear distinction between 'natural' sausage casings and other types of casings (the Natural Sausage Casings Associations, 4 May 2011). The 'casing amendment' was adopted by both ENVI and the plenary during the EP's first reading, and re-tabled by EPP MEPs during the EP's second reading after the Council had rejected it in its first reading position.

When the casing amendment was re-tabled by ENVI EPP MEPs, significant lobbying accrued from the Collagen Casings industry. They were strongly opposed to any amendments laying down specific requirements concerning the designation of sausage casings. They thought that such amendments were misleading, and reflected an attempt by the natural sausage casings industry to gain a competitive advantage over other sausage casing industries.<sup>83</sup> The collagen industry maintained that casings made from collagen cannot be described as artificial because this term is usually reserved for man-made synthetic products. Collagen casings are made from a natural raw material which is subsequently processed. The Collagen casings industry argued that equating 'natural' to 'animal intestine' is erroneous as casings derived from the intestinal tract of an even-toed ungulate may have been bleached and undergone chemical treatment before use. Therefore, they saw it as unfair that an intestine processed and then used for making a sausage was to be labelled 'natural', whereas skin processed and used for making a sausage was considered 'artificial'.

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<sup>83</sup> Interview, Collagen Casings Trade Association, CCTA, August 2011

Due to lobbying from the collagen casings industry, MEPs rejected amendments from the natural sausage casings industry at second reading. Instead, the EP's plenary adopted an amendment requiring sausage casings industries to indicate if a sausage casing is edible. The conflict within the sausage casing industry shows MEPs lack of in-house expertise to gauge the impact of its amendments, and its dependence on the food industry to equip them with information, which is rarely impartial. In interview, one assistant to a key MEP was convinced that the sausage casing debate and amendments would not have been launched without lobbying from the sausage casing industry:

The amendments on sausage casings [...] no MEPs would have thought this up. There is no way that MEPs would know about it – it took me a whole day to do research on it and this is only one aspect of a highly complex piece of legislation. On the face of it, this amendment sounds quite reasonable. Nobody really questioned its validity of this amendment before we were lobbied by the Collagen Casings Trade Association. Then we became aware of the problems and unworkability of this [casings] amendment.<sup>84</sup>

The sausage casings example also shows that businesses cannot be seen as a monolithic force because industries might seek to gain a competitive advantage for their products to the detriment of similar products from other companies. This corresponds with the expectations arising from Wilson's interest group politics category, in which companies providing similar goods or services often compete against one another. Unlike the expectations arising from Wilson's typology, the issue of sausage skin labelling did not result in a compromise between opposing groups, but instead in clear winners and losers.

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<sup>84</sup> Interview, ECR MEP assistant, 27 April 2011

#### *4.4.4 Majoritarian politics: the morality of meat: halal and kosher*

Should meat products derived from animals that have not been stunned prior to slaughter (i.e. been religiously slaughtered<sup>85</sup>) be labelled as ‘slaughter without pre-stunning’? This question has been subject to heated debate both inside and outside the EP after several MEPs from across the policy spectrum put forward amendments to label religiously slaughtered meat as ‘meat from slaughter without stunning’. The issue represents a typical majoritarian politics case, which engender widely dispersed costs and benefits. The chances of reaching a policy outcome are expected to be slim because no-one has the incentive to push for their position. A policy resolution is only likely to take place when there is adequate political and popular support. The issue of religiously slaughtered meat opposes the meat industry and religious groups (Jewish and Muslims) against animal welfare organisations and secularist groups. Jewish religious groups consider mandatory labelling of meat slaughtered by ritual means discriminatory, anti-Semitic, and prejudice, while animal right organisations and secular societies argue that ritual slaughters is inhuman and cause animal suffering.

The stunning of animals before slaughter has been compulsory in the EU since 1979, although most EU countries grant exemptions to those religious communities that require animals to be non-stunned prior to slaughter according to their religious beliefs. According to existing EU legislation on slaughtering practices, animals shall only be killed after

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<sup>85</sup> There are two main types of religious slaughter methods: halal slaughter (meat for intended for Muslims) and Shechita (kosher meat for Jewish communities). For meat to qualify as halal, it must fulfil three conditions: the animal must be alive, healthy and uninjured at the time of slaughter; blood must be drained from the animal’s body; and the slaughter process must be carried out by a trained Muslim, who begins the slaughter by reciting the appropriate Islamic prayer. Both halal and Shechita (Jewish slaughter method) slaughter requires a single-cut method of slaughter by which the animal is killed with a quick cut to the throat using a sharp knife. This allows the blood to drain out and, it is believed, makes the meat cleaner. In comparison, non-religious slaughter methods render the animal unconscious prior to slaughter using stunning, electrocution or a bolt gun (Hasan, 2006, pp. 20-26).

being stunned. Member states are, however, allowed to authorise religious slaughter without pre-stunning within their own territory and under the supervision of official veterinary authorities (Council of the European Union, 2009). Existing EU regulation on slaughtering practices is based on two conflicting principles. On the one hand, there is growing concern for animal welfare, which has led EU policymakers to ban slaughter without previous stunning in order not to cause unnecessary pain and distress to the animal. On the other hand, fundamental human rights to religious freedom need to be protected, and religious slaughter can be seen as a religious freedom right.

The European Commission's proposal for a regulation on food information to consumers did not touch upon the controversial issue of labelling religiously slaughtered meat. The issue was only put on the agenda when the European Commission's proposal was put forward to the EP. The rapporteur's first draft report in the sixth parliamentary term did not include any amendments on religiously slaughtered meat. The issue was raised during committee discussions in ENVI and AGRI, where MEPs from the left-wing and right-wing periphery political groups put forward amendments suggesting labelling meat derived from religious slaughter. These amendments were adopted by ENVI in the sixth parliamentary term, and included in the rapporteur's second draft report in the seventh parliamentary term, after the plenary had voted to refer the report back to ENVI for renewed scrutiny. The amendments were adopted by the EP at first reading, but were, however, not accepted by the Council as the Council did not intend to adopt specific labelling for religiously slaughtered meat. S&D, ALDE, and ECR MEPs re-launched the amendment during the EP's second reading, but the amendment was taken out of the EP's report in order to reach an agreement with the Council. The final legislative text between the Council and the EP stated that:

Union consumers show an increasing interest in the implementation of the Union animal welfare rules at the time of slaughter, including whether the animal was stunned before slaughter. In this respect, a study on the opportunity to provide consumers with the relevant information on the stunning of animals should be considered in the context of future Union strategy for the protection and welfare of animals (European Parliament and Council of the European Union, 2011a).

The outcome reflects a typical EU strategy for dealing with controversial issues, entailing the use 'escape routes' to avoid ending up in deadlock. In the case of the issue of religiously slaughtered meat, stalemate was avoided by prompting the European Commission to conduct a study on the matter before taking any further legislative steps. Although the issue has now been temporarily kicked into the long-grass, the discussions in the EP show just how highly charged and controversial the issue of religiously slaughtered meat is. So, what is it about religiously slaughtered meat that gives rise to tension and controversy?

Muslims and Jews believe that religious slaughter is humane and pain-free because the animal is rendered unconscious quickly. However, the image of blood pouring out from the incised throat of animals has been subject to much opposition towards religiously slaughtered meat from animals welfare organisations. Animal welfare and secularist groups argue that there is a high risk that animals that have not been stunned prior to killing feel extreme pain during the cutting of the throat. Moreover, not all meat that is religiously slaughtered is consumed only by Jewish and Muslim consumers as certain animal parts may not be eaten according to religious law. These parts are often mixed in and sold with other meat, without necessarily informing the consumer that part of the meat derives from animals that have not been stunned. Animal welfare and secularist groups urge EU decision-makers to legally require animals to be rendered unconscious before killing, or at the very least require non-stunned meat to be labelled as such to help consumers make informed decisions. They claim that without requiring non-stunned meat

to be labelled as such, the meat is being forced upon customers without their knowledge and consent.

Animal welfare organisations launched a major lobbying campaign towards the EP on the food labelling regulation in order to bring back the issue on the agenda. The issue was highly politicised in the media and became a hotly discussed issue in the EP, engaging MEPs from all political groups. MEPs and interest groups in favour of labelling religiously slaughtered meat constitute a motley crew, bringing together both far-right and far-left political groups, animal welfare organisations, and secularist groups (such as the British Humanist Association). Secularist groups, such as the British National Secular Society, have long pushed for revoking the exemption for religious groups that allows them to religiously slaughter animals without pre-stunning. Both animal welfare groups and secular groups believe that animals should be stunned prior to slaughter, and if slaughter without stunning is still to be permitted then no more animals should be slaughtered under the exemption than is necessary (National Secular Society, 2012). Lobbying from animal welfare groups proved important for convincing mainstream EP political groups (such as the ALDE group) to vote in favour of labelling of meat derived from animals slaughtered without stunning. As an ALDE assistant to a key MEP explained when asked if any interest groups pointed towards new aspects of the regulation that he/she had previously been unaware of:

Lobbying from secularist groups and animal welfare groups influenced our position [on religiously slaughtered animals]. They argued that ritually slaughtered meat should be labelled as such. This made me change the voting list on this topic and to put a plus for voting for the labelling of ritual slaughtered meat.<sup>86</sup>

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<sup>86</sup> Interview, ALDE MEP assistant, 18 February 2011

MEPs and interest groups in favour of labelling religiously slaughtered meat as 'meat from slaughter without pre-stunning' had one big player in the palm of their hands: the media. The issue was taken up by several national newspapers and was made subject to fear mongering and misinformation campaigns, particularly in the UK. On 19 September 2010, the British tabloid newspaper 'Mail on Sunday' brought an article entitled 'Britain goes halal...but no one tells the public: How famous institutions serve ritually slaughtered meat with no warning' (Mcgee & Delgado, 2010). The article claimed that restaurants, schools, hospital, pubs, and big sporting venues, such as Ascot and Twickenham, are 'controversially serving up meat slaughtered in accordance with strict Islamic law to unwitting members of the public'. A week later, the 'Mail on Sunday' brought a new article in which it claimed that '70 per cent of New Zealand lamb imports to Britain are halal...but this is NOT put on the label' when it is being sold in British supermarkets (Poulter, 2010b). The articles insinuated that halal meat is inflicted on 'innocent, animal-loving non-Muslim Britons', who do not know they are eating Halal meat (Hasan, 2012, p. 23).

Muslim and Jewish groups found that the issue of labelling of religiously slaughtered meat was used by the media and right-wing politicians as a 'proxy for much deeper fears and concerns about the presence of growing and vocal Muslim population in our midst [...] Protecting animals is the cover behind which critics of [religiously slaughtered meat] often hid' (Hasan, 2012, pp. 25-26). Interviewees from the European livestock and meat trading union thought that opposition to religious slaughtering is often due to ignorance of the issue, and sometimes used as an indirect way to utter islamophobic and Judaism phobic views. The European Jewish Congress considers labelling of non-stunned meat discriminatory 'because there is no such labelling for all those millions animals killed by electrocution, shooting, gassing or clubbing as well as the millions of animals that are mis-stunned during the stunning process.' 'If the public were to discover that animals were

subject to pre-slaughter intervention – like having their skull cracked open being electrocuted, or put on gas chamber – they might not like that either’ (Hasan, 2012, p. 26). Therefore, Jewish groups argue that religiously slaughter methods should not be singled out, but that consumers should also be made aware of how animals under conventional slaughter methods are rendered unconscious. The European Jewish Congress argued that if amendments on religiously slaughtered meat were adopted, it could provoke unintended discriminatory consequences and could potentially set the ball rolling for further stigmatisation of Jewish and Muslim communities. Another reason advanced against labelling of non-stunned meat is the potential loss of income to the halal and kosher meat industry making it commercially unviable. In interview a representative from the European livestock and meat trading union argued that many of those opposing religious slaughtering have limited knowledge about the slaughtering method:

The consumers are entitled to be informed, but in the case of labelling of meat coming from ritual slaughter practices, the consumers haven’t enough knowledge to understand the difference between religious slaughtered meat and non-religious slaughtered meat. People think that the animals are bleeding to death. If the slaughter has been made by a trained operator according to the best practices, the difference between the two practices is not huge [...] if such legislation on labelling is adopted, it could lead to massive campaigns to boycott meat and meat products derived from religious practices. This may lead to stigmatisation of Jewish and Muslim communities all over Europe by various kinds of organizations, especially extremists of various natures.<sup>87</sup>

Jewish groups, such as the Jewish Congress, argued that ignorance about ritual slaughter practices should not influence purchase decisions. The issue of religiously slaughtered meat tells us four things about EU

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<sup>87</sup> Interview, the European livestock and meat trading union, 12 April 2012



decision-making and interest groups' ability to influence policy outcomes (which will be explored further in what follows):

- Policy issues are inter-linked: if legislators fail to get an amendment passed in one piece legislation, they might seek to get it passed in another.
- Some interests groups enjoy privileged access to MEPs because they run the secretariat of a parliamentary intergroup.
- When an issue engenders strong emotions and ethical considerations, it is difficult to counter-argue with logical reasoning (i.e. scientific arguments).

Firstly, the issue of labelling of religiously slaughtered meat is by no means new. It was subject to heated debate in the late 1990s when the EP's AGRI committee gave an opinion on the European Commission's 1998 proposal for a regulation on the protection of animals at the time of killing. The AGRI rapporteur, ECR MEP Janusz Wojciechowski (former member of Union for Europe of the Nations Group, UEN), suggested to mandate labelling of religiously slaughtered meat. This amendment was, however, not supported at plenary. In a move often used by legislators, Janusz Wojciechowski took an amendment not passed in one dossier and sought to get it passed in the context of another dossier: the proposal for a regulation on food information for consumers. His amendment was later incorporated into the ENVI report after several other MEPs from the Greens/EFA and GUE/NGL had suggested similar amendments with identical wording. As one interviewee pointed out:

The issue of ritual slaughtering was already raised by the EP and discussed in the framework of the regulation on the 'protection of animals at time of killing'. On that occasion the EP already voted against the proposal to label meat produced according to religious practices. The issue of ritual slaughter was raised once again in the framework of the proposed

regulation on food information to consumers and the same amendment was put forward by the EP.<sup>88</sup>

The issue of religiously slaughtered meat did not come out of the blue. Janusz Wojciechowski's political group, the ECR, has close ties with animal welfare groups, such as the Eurogroup for animals. The Eurogroup for animals is 'the leading voice for animal welfare at European Union level, providing a voice for the billions of animals kept in laboratories, farms and homes or living in the wild' (Eurogroups for Animals, 2012) . This leads on to the second factor: privileged access to MEPs. The Eurogroup for animals provides the secretariat for the EP's intergroup on Animal Welfare and Conservation, which brings together MEPs from all political groups with a particular interest in debating and learning about animal welfare issues. Many of the MEPs, who put forward identical amendments on the labelling of religiously slaughtered meat, are members of the intergroup, and therefore had easy access to information from the animal welfare organisations. As the co-chair of the intergroup, Greens/EFA MEP Carl Schlyter, explained during interview:

The animal welfare groups helped me regarding information on slaughter and on animal transport, but that is because I'm the president of the intergroup on Animal Welfare and Conservation. We didn't discuss the dossier in the intergroup, but I discussed it with people from the intergroup. The Eurogroup for animal welfare provides the secretariat, and they are paid for by animal welfare groups in Europe through memberships.<sup>89</sup>

The intergroup provides the Eurogroup for animals with an efficient short cut to get easy access to MEPs who are particularly favourable to their cause. Janusz Wojciechowski is a member of the intergroup on Animal Welfare and Conservation, and his amendment reflected the views of the Eurogroup for animals. The meat industry, Muslim and

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<sup>88</sup> Interview, the European livestock and meat trading union, 12 April 2012

<sup>89</sup> Interview, Green MEP, 25 May 2011

Jewish groups do not form part of any intergroups in the EP, and did therefore not enjoy the same level of access to MEPs as animal welfare organisations.

Lastly, the example shows that when issues are couched in highly emotional and ethical terms, policy issues often become highly salient (increased media attention) and draw in many MEPs, who take up the role as policy entrepreneurs for the ethical cause. 'Religious slaughter has always been a controversial and emotive subject, caught between animal welfare considerations, cultural and human rights issues' (DIALREL, 2012). Although the issue of religiously slaughtered meat has been kicked into the long grass, pending on a study to be conducted by the European Commission, the issue would not have been raised with the same saliency, was it not for active lobbying from animal welfare groups.

The issue of religiously slaughtered meat, to a certain extent, tallies with the expectation arising from Wilson's majoritarian politics category. As expected from Wilson's typology, a policy resolution did not take place (other than kicking the issue into the long grass, pending on an impact assessment) because there was not enough political and popular support to regulate labelling of meat from religious slaughter. Unlike the expectations arising from Wilson's majoritarian politics category, lobbying was not marginal. The issue was highly politicised and subject to intense lobbying from animal welfare and secularist organisations, opposing one another.

#### **4.5 Conclusion**

The proposal for a regulation on food information to consumers included four interest group constellations: entrepreneurial (overall labelling rules as well as the discussion over traffic light labelling), client politics (exemptions), majoritarian (labelling of non-stunned meat), and interest group politics (the definition of a natural sausage casing). Policy did, to a

certain extent, shape politics in the entrepreneurial politics aspects of the proposal as the food industry was both more active in lobbying the EP, and had more influence over the final legislation. However, business interests did not prevail entirely over consumer and health groups. Although the media accused MEPs of ‘caving into pressures from the food industry and for putting food industry profits before the need to reduce spiralling obesity and ill-health’ (Poulter, 2010a), the EP adopted many amendments that went against the interest of the food industry. Consumer and health groups were instrumental in launching a debate on the utility of a traffic light system and in encouraging MEPs to put forward amendments on the labelling of trans fats. Rather than influencing the final outcome, ‘lobbying helped MEPs to form their arguments and to alert them to new issues’.<sup>90</sup>

While the overall policy outcome did not reflect a zero-sum game, there were clear lobbying ‘winners’ and ‘losers’ on specific aspects of the regulation. The food industry was successful at influencing the technical details of the legislation, such as the decision on which food products should be exempted from the scope of the regulation. This is in line with the expectations arising from Wilson’s client politics category. The exemptions of certain products resemble the ‘world of capture’ because they reflect the concern of specific food industries rather than those of the general public. On many of the highly technical aspects of the regulation (such as exemptions and labelling of sausage casings), consumer and health interests did not have a view, and therefore the lobbying field was left to the food industry.

The food labelling case also shows that some issues are what I call trump issues, engendering strong emotions among MEPs. As such, the issue of whether or not to label meat without pre-stunning was highly politicised in the media, and provoked strong emotions among MEPs. From a theoretical viewpoint, one would have expected limited lobbying

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<sup>90</sup> Interview, ALDE advisor, 23 February 2011

from animal welfare groups, secularist and religious groups as they were faced with either diffuse benefits or diffuse costs. However, all of these groups were highly active in lobbying the EP. Religious slaughter is an issue that provokes strong emotions and ethical considerations, and drew in many MEPs who took up the role of champions of animal welfare organisations. This was of great disappointment to religious groups, who thought that the emotive character of the issue made MEPs reluctant to consider those scientific findings that show that animals slaughtered without stunning do not suffer unnecessary pain and distress. However, the final outcome reflects what might be called, 'a promise of a future decision'. Thus, the issue was pushed aside because there was not enough political and popular support to regulate labelling of meat from religious slaughter. The Council and the EP agreed to let the European Commission conduct a study on the issue of whether or not to reduce or ban the religious practice of slaughtering without stunning before taking any further steps. The example also shows that one piece of legislation cannot be seen in isolation from other pieces of legislation. The 'slaughter amendment' did not appear from out of the blue and had already been put forward, but failed to be adopted, in the regulation on the protection of animals at the time of killing.

Regarding the type of tactics used and the type of information provided by interest groups, both the food industry, and consumer and health groups drew on outside and inside lobbying tactics, and provided similar types of information. Although the expectation from the interest group literature is for NGOs to be limited in the use of outside tactics, the consumer and health groups interviewed for this chapter primarily drew on inside tactics. Similarly, the food industry mainly focused their efforts on lobbying MEPs directly, although they also organised several events inside the EP and used the Brussels media to advance their position. Unlike the expectation from the interest group literature (see chapter 1), outside tactics – such as using the media, arranging conferences, mobilising citizen support through petitions and manifestations – were

not seen as ‘outsider tactics’, but were frequently taken up by the food industry, but only to a limited extent by consumer and health groups. The numerous events held by the food industry inside the EP raised their visibility with MEPs and perhaps eased their access to MEPs.

The information provided by interest groups was very similar, as both the food industry and consumer and health organisations provided information about consumer preferences for different labelling schemes, which drew on academic research and research carried out by public authorities (such as the British Food Standards Agency). The EPH network provided information about the link between unhealthy eating habits and coronary heart diseases. The type of information used by interest groups on the food labelling regulation can be seen as falling in between technical and political information because it both says something about wider public support, as well as the impact of different food labelling schemes on consumer behaviour.

## **Chapter 5: Regulating Working time for Self-employed Trucker Drivers**

On 16 June 2010 the EP rejected a proposal by the European Commission amending the existing Directive 2002/15/EC ‘the organisation of the working time of persons performing mobile road transport activities’ (the road transport directive). The vote brought to a close a decade of political squabbling on what had become a highly contentious issue. The main bone of contention was whether or not self-employed bus and lorry drivers should be subject to the same restrictions on working hours as drivers working for companies. The European Commission proposed to exempt self-employed lorry drivers from EU working time rules, but the EP voted to maintain them within the existing directive. The battle-lines in the EP were largely drawn along the traditional left-right divide. One camp, the centre-right, argued that regulating self-employed drivers’ working time would hamper their competitiveness and set a dangerous precedent for regulating the activities of the self-employed in general. The other camp, the centre-left, contended that the lack of such regulation would lead to social deregulation of the transport sector, and put self-employed drivers at risk of burnout, increasing danger on the roads. At the EP’s plenary vote, however, a significant number of national EPP delegations opted to support the Socialists and Greens rather than toeing the official EPP line to exclude the self-employed from the scope of the directive. The upshot of the EP’s vote means that self-employed drivers are subject to the same 48 hours average weekly working time as staff drivers.

All the people interviewed for this case study attributed the ‘swing’ to the left of several EPP national delegations to an effective lobbying campaign by trade unions, and ‘a text book example of how influential lobbyists can be in Parliament’.<sup>91</sup> While the trade unions hailed

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<sup>91</sup> Interview, key MEP, 16 November 2010

Parliament's rejection of the European Commission's proposal to amend the road transport directive, the outcome was a major thorn in the side of many employers' associations. Employers' associations saw the inclusion of self-employed drivers within the scope of the road transport directive as limiting the freedom of self-employed drivers and distorting competition. Paradoxically, the outcome of the road transport directive goes against general expectations in the interest groups literature for compromises to occur between opposing groups when costs and benefits of regulation are narrowly distributed. Regulating working time is a typical example of 'interest group politics' pitting special interests against special interests: businesses versus trade unions. In such a scenario, both trade unions and employers are expected to have strong incentives to press their demands, which often lead to policy outcomes reflecting a compromise between opposing groups. Rival groups' lobbying efforts are likely to counter each other and decision-makers are inclined to seek compromises between opposing groups.

The main question of this chapter is: what factors explain why the EP's policy outcome of the road transport directive favoured the views of the trade unions, instead of reflecting a compromise between opposing groups (as envisaged by Wilson's policy shapes politics typology)? This chapter is organised as follows. The following section introduces the road transport directive and its background. I then examine the positions of the trade unions and employers' associations followed by an analysis of the factors accounting for the trade unions' lobbying success.

## **5.1 Background of the road transport working time directive**

The road transport working time directive is a *lex specialis* to the general working time directive 2003/88/EC and supplements Regulation 2006/561/EC laying down common rules on driving times and rest



periods for drivers. The *raison d'être* of the general working time directive is to ensure that salaried workers are protected against adverse effects on their health and safety caused by working excessively long hours, having inadequate rest, or disruptive working patterns. The working time directive provides for a maximum working week of 48 hours on average including overtime, daily rest breaks of at least 11 consecutive hours a day, 4 weeks annual paid holidays, and a minimum rest period of 1 day a week. When the general working time directive was first adopted in November 1993, it included a number of exclusions and derogations relating to specific sectors and activities. These were the transport sector, sea fishing, offshore work, and the work of hospital doctors in training. One of the main reasons behind these exemptions was that many workers from the excluded sectors spend significant time away from home - such as people working at sea or in long distance transport - which makes it difficult to define the length of a working day for these types of work.

The exclusion of whole sectors – such as the transport sector – did, however, seem rather arbitrary. While it may be difficult to restrict the length of a working day for employees spending significant amount of time away from home, there is no reason why these workers should not have the right to paid annual leave. Furthermore, there is no objective justification for treating office workers in the transport sector less favourably than office worker in other sectors. The European Commission therefore suggested extending the provisions of the general working time directive to the excluded sectors. In July 1997, the European Commission published a white paper on ‘sectors and activities excluded from the working time directive, in which it suggested to extend the working time directive to cover the excluded sectors (see, European Commission, 1997).

Regulating working time for the road transport sector, however, turned out to be more difficult than in other sectors. The EU social partners managed to reach agreements on the organisation of working

time in the maritime sector and the rail sector, but failed to find common ground on rules governing working time in road transport. This was mainly due to disagreement over the definition of working time. The European Commission, therefore, decided to put forward its own proposal in November 1998, specifying a number of requirements relating to working time for workers in the road transport sector, which should apply to both employed and self-employed workers. The European Commission argued that it was necessary to include self-employed drivers in order to secure the health and safety of workers, to improve road safety, and to prevent the distortion of competition (European Commission, 2007b).

The European Commission's proposal to regulate the working time of self-employed drivers was received with some scepticism in the Council. Whereas the EP was generally supportive of including the self-employed within the scope of the directive, a majority of member states in the Council were vehemently opposed to their inclusion. In an effort to avoid deadlock, the European Commission proposed to temporarily exclude self-employed drivers from the scope of the directive within the first four years of operation. This sunset clause represented a 'delicate' compromise between the EU institutions in order to solve the disagreement over the issue of the self-employed (Rodgers, 2009, p. 340). The road transport working time directive became applicable in March 2005, and includes the following provisions:

- It seeks to regulate the working hours of drivers of vehicles larger than 3.5 tonnes.
- It sets a weekly limit of 48 hours on average, which can rise to 60 hours, provided the average of 48 hours per week over a four-month period is not exceeded.
- It provides a definition of the types of activities that should be included in the calculation of working time: driving, loading and

unloading, assistance to passengers, cleaning and maintenance, and formalities with police and customs.

- It sets an obligation to take a break after six hours of work in addition to the provisions on breaks in Regulation 2006/561 on driving hours and rest periods.

The compromise - to temporarily exclude self-employed lorry drivers from the scope of the 2002 road transport working time directive - represents a typical strategy employed in the EU to accommodate interest diversity. EU policy-making would inevitably result in stalemate if it not for the extensive use of 'informal strategies and patterns that circumvent political impasses. Stalemate is prevented by agreeing on package deals, compensating losers, settling for framework legislation, and differentiated solutions, such as inserting a review clause, exemptions and/or phasing in of compliance (Héritier, 1999). The 'delicate' compromise to temporarily exclude self-employed drivers from the road transport directive in 2002 was thus one way of overcoming gridlock and reaching a temporary compromise. When adopting the road transport directive in 2002, the Council and Parliament agreed that the directive should in principle apply to self-employed drivers as of 23 March 2009, unless the European Commission proposed legislation to the contrary. In addition, the European Commission was requested to present a report to the EP and the Council at the latest two years before that date, presenting the likely consequences of the inclusion or exclusion of self-employed drivers from the scope of the directive.

The European Commission published its report on 23 May 2007, in which it provided an overview of the directive's implementation status, addressed the potential consequences of excluding or including self-employed drivers from the scope of the directive, and assessed the directive's night-time provisions. The report concluded that there was no decisive case for including self-employed drivers under the directive. Concerns about the enforceability of the revised directive, its potential

impact on competition, and the difficulty of quantifying the effects on road safety were cited as the main reasons for excluding the self-employed from the scope of the directive. The European Commission concluded that the purpose of the road transport directive - namely fair competition, improved road safety, and better working conditions - could still be achieved without including self-employed drivers within the scope of the directive. However, the European Commission was concerned that the exclusion of the self-employed could encourage employed workers to declare themselves as self-employed to avoid the provisions of the working time directive (the issue of false self-employed drivers). The report also highlighted the different ways in which the directive was interpreted and enforced in the various member states, and pointed out that this could lead to distortion of competition and differences in minimum standards applied across member states (European Commission, 2007b).

#### *5.1.1 The European Commission's proposal*

The European Commission published a proposal on 15 October 2008 that modified the 2002 road transport working time directive. This proposal provides for the continued exclusion of self-employed driver from the scope of the directive. Furthermore, the proposal addresses the issue of falsely self-employed lorry drivers by redefining the definition of an employed mobile worker. The 2002 road transport working time directive defines a mobile worker as 'any worker forming part of the travelling staff, including trainees and apprentices, who is in the service of an undertaking which operates transport services for passengers or goods by road for hire or reward or on its own account' (European Commission, 2008d) . The 2002 directive does not, however, account for falsely self-employed. Therefore, the European Commission's 2008 proposal – revising the 2002 road transport working time directive - includes a definition of falsely self-employed workers. A falsely self-

employed lorry driver is defined as a person, who is not tied to an employer by an employment contract or by a hierarchical relationship, but:

- who does not have the freedom to organise their working activities
- whose income does not depend directly on the profits made
- who does not have the freedom to have several customers

Additionally, the proposal redefines night work, which corresponds to a period of work which includes at least two hours' work (in contrast to the directive's current rules of four hours' work), performed between 0:00 hours and 07.00 hours. Lastly, the proposal introduces common principles designed to enhance cooperation between member states' enforcement authorities. The proposal contains the possibility to deviate from the standard rules by way of Social Dialogue or collective labour agreements (European Commission, 2008b). The nature of the European Commission's proposal – as being a revision of an existing directive with a review clause – meant that interest groups did not have an impact on the agenda-setting stage (i.e. exerting lobbying pressure on the European Commission to come forward with a new proposal). As seen in this section, the European Commission was obliged to present a report by 23 March 2009 followed by a legislative proposal, in which it would address whether or not self-employed lorry drivers should continue to be exempt from the road transport directive.

### *5.1.2 The cost/benefit profile of the proposal*

The European Commission's impact assessment considered four policy options:

- *Option A*: 'Do nothing', i.e. the automatic inclusion of self-employed drivers within the scope of the directive.
- *Option B*: Extending the scope of the directive by including all self-employed drivers, except for self-employed drivers who are only conducting national transport.
- *Option C*: Enhanced enforcement of the directive with modalities to ensure the inclusion of false self-employed into the scope of the directive while keeping the genuine self-employed workers out of the directive.
- *Option D*: Exclusion of self-employed drivers without taking any actions against false self-employed drivers.

The Commission's proposal includes policy option C, and provides for a clearer legal definition of mobile workers, false self-employed, and genuine self-employed. However, as will be seen later in this chapter, the EP opted for option A. This section, therefore, only considers the costs and benefits arising from options A and C, as options B and D did not come into fruition. Table 5.1 shows the costs and benefits of option A included in the Commission's impact assessment, whereas table 5.2 shows the costs/benefit profile of option C. The costs and benefits were mainly provided in qualitative terms due to lack of reliable data or no data to make quantified estimates.

### 5.1: Cost/benefit analysis of option A

<b><i>Benefits</i></b>	<b><i>Costs</i></b>
Level playing field for all persons performing mobile road transport activities	Adverse effect on entrepreneurship developments as some self-employed will leave the market due to a reduction in their earnings and flexibility
Elimination of false self-employed phenomenon	Increased costs on member states connected to establishing enforcement systems and carrying out checks
Increase of competitive advantage of large companies (only benefit for large companies)	SMEs lose their market power due to concentration process
Protect self-employed drivers against adverse effects of working excessive long hours on their health and safety and to reduce fatigue and stress	Slightly higher costs for employers related to monitoring, recording, and reporting working time
	Risk of increase in the final consumer prices of freight transport services

*Source:* European Commission, 2008f, pp. 35-35

As can be seen from table 5.1, the benefits of regulating the working time of both employed and self-employed drivers are four-fold. Firstly, it provides a level playing field for all drivers engaged in mobile road transport activities. The exclusion of genuine self-employed drivers is sometimes seen as hampering a level playing field in the road transport sector because the self-employed can work longer working hours than employed drivers. Secondly, it indirectly addresses the problem of low compliance of the directive by including both false self-employed and genuine self-employed within the scope of the directive, although this does not ensure that all drivers will comply with the working time rules. On the contrary, it might worsen the general compliance with the directive as many self-employed drivers are against having their working

time restricted and the rules have so far been weakly applied. Thirdly, it will give a competitive advantage to large companies who, due to economies of scale, are better suited to adjust to new rules without losing business than SMEs. Lastly, regulating the working time of self-employed drivers will protect them against the adverse effects of working excessive hours on their health and safety, as well as possibly reducing the risk of stress and fatigue, provided that the intensity of work does not increase. This could improve driving quality and could in turn have a small effect on the overall improvement of road safety, although this remains speculative (European Commission, 2008f, p. 41).

The benefits of regulating the working time of self-employed truck drivers are off-set by a number of negative factors. Self-employed drivers will have to choose between giving up part of their activities resulting in decreased income, employing a second driver, or increasing the intensity of their own work in order to maintain the same level of freight transported. This is likely to incur increased costs for self-employed drivers, less flexibility, and increased stress and fatigue. The reduced turn-over and income of self-employed drivers are likely to result in a slight increase in consumer prices. It is also likely to have unfavourable effects on entrepreneurship due to the increased costs of being self-employed. The European Commission's impact assessment estimates that the weekly profit of genuine self-employed drivers is likely to be reduced by more than 72 % on average, which might lead some self-employed to close down their business (European Commission, 2008f, p. 30). Option A also imposes increased costs on member states related to establishing improved enforcement systems and undertaking checks, as well as for the private sector, in relation to the recording, monitoring and reporting of working time.

Instead of regulating self-employed drivers, the European Commission proposed to improve the enforcement of the directive, to include the false self-employed, and to have a clear legal distinction between genuine self-employed drivers and employed drivers. This was



argued to lead to a considerable reduction in the number of false self-employed drivers, at least for those who regard themselves as self-employed due to incorrect interpretation of the existing directive (European Commission, 2008f, p. 34). Yet it will not increase the number of bogus self-employed drivers, who consciously play the system. It is estimated that the annual costs of inspections for 25 EU member states (not including Bulgaria and Romania) will vary from €1, 9 million for checking 5% of self-employed drivers to €7,9 million for a 20% target. Likewise, the average costs for the private sector in EU25 are estimated to be €1.6 million with the following breakdown: €212.556 for additional employed drivers, €85.022 for reporting activity, and €73.33 for labour costs per man-hour (European Commission, 2008f, pp. 55-59). While the Commission's proposal (policy option C) increases the costs borne by employers and national authorities in terms of monitoring, recording, reporting, and enforcing the rules, the proposal has several positive effects.

Table 5.2: Cost/benefit analysis of option C

<b><i>Benefits</i></b>	<b><i>Costs</i></b>
Reduction of the number of false self-employed due to expected improvement in compliance rate	Slightly higher costs for employers concerning monitoring, recording, and reporting working time
Aligning the conditions of competition between salaried mobile workers and some false self-employed	Phenomenon of false self-employed continues in force, albeit to a more limited extent
Harmonised enforcement regimes across the EU	Additional costs of conducting enforcement measures to be shouldered by national authorities
Allows genuine self-employed to maintain their income levels and competitive position in the sector	

Source: European Commission, 2008f, p. 38

As can be seen from table 5.2, the benefits arising from policy option C (the Commission's proposal) are associated with a reduction in the number of false self-employed, aligning the conditions of competition between mobile workers and some false self-employed, harmonising EU enforcement regimes, and improving the competitive position of the genuinely self-employed. False self-employed do not enjoy the same employment rights and social protection (such as pension rights, holiday entitlements, maternity/paternity provisions) as employed workers. Therefore, these false self-employed, who regard themselves as self-employed due to inaccurate interpretation of the existing directive, are likely to become employed and enjoy greater employment rights and social protection.

Furthermore, option C will eliminate distortions of competition between companies and drivers who comply with the rules and those that break them. The exclusion of the genuinely self-employed enables them to retain their income level and their competitive position in the road transport sector. Neither option A nor C includes any estimations of the impact on road safety. The European Commission maintains that there is limited data on causes of accidents, and that no data relates accidents to the working hours of professional drivers. Furthermore, data on road accidents does not differentiate between employed drivers and self-employed drivers. Therefore, it is difficult to make firm conclusions on what impact the regulation or non-regulation of the working time of self-employed truckers will have on road safety. As will be seen in the rest of this chapter, there is significant disagreement, however, between interest groups on the magnitude of the costs and benefits arising from the Commission's proposal. This shows that the definition of costs and benefits is in itself an arena of contestation.

## **5.2 The interest group arena**

The road transport directive represents a typical example of interest group politics, pitting special interest against special interests. The lobbying spectrum included two lobbying sides: those for the inclusion of self-employed lorry drivers (trade unions and the French government), and those against (a large number of employers' associations and SMEs). Lobbying from the trade unions was mainly undertaken by the European Transport Workers' Federation (ETF) and its affiliated unions. ETF is a pan-European trade union organisation embracing European transport unions, and is also a member of the European Trade Union Confederation (ETUC). From the outset, the ETF was resolutely opposed to the European Commission's proposal to exempt self-employed drivers from the scope of the road transport directive. The road transport directive was, however, characterised by tension between the ETUC and the ETF. The ETUC thought the ETF was playing a risky game by going for 'all or nothing' rather than trying to secure the right of employees in the event MEPs would decide to support the European Commission's proposal. As the S&D shadow rapporteur, British MEP Stephen Hughes, explained:

We [the ETF and S&D MEPs] could have used more support from the ETUC. The ETUC was not behind the ETF on this, and somehow I felt that the ETUC hoped that the ETF would fail, so they could learn a lesson. I sent a message saying that if you're not going to be helpful on this, just stay out of it. And they did stay out of it. The ETUC was mainly dealing with the fall-back position [including a thorough definition of the working time of employed and self-employed drivers to improve enforcement of the rules]. I don't think we could have won it if there had been heavy lobbying for the fall-back

position from the ETUC. I felt that the ETUC had let down the ETF.<sup>92</sup>

The ETF did go for an ‘all or nothing’ lobbying gamble, putting all its eggs in one basket by solely lobbying for a rejection of the European Commission’s proposal without taking into account what would happen if they did not succeed. Under the banner ‘fatigue kills’, the ETF launched a lobbying campaign highlighting the hazards associated with long working hours in the road transport sector regarding the health and safety of drivers and road safety in general. The ETF argued that leaving self-employed drivers outside the scope of the road transport directive would potentially introduce an 86-hour working week into the sector, which would lead to drivers’ fatigue and undermine road safety. The ETF argued that ‘fatigue is a significant factor in approximately 20 per cent of commercial road transport crashes. They cited surveys that show that over 50 per cent of long haul drivers have fallen asleep at the wheel’ (ETF, 2010). The ETF criticised the European Commission for grounding its assumptions - that exclusion of self-employed drivers from the working time rules would not jeopardise road safety - on inadequate data. The ETF stressed that the EU database on road accidents (CARE) has been criticised for years for failing to reflect the real situation of road safety as the database was argued to produce incorrect lorry accident data.

Moreover, the ETF argued that the exclusion of the self-employed from rules governing working time had created an incentive for the industry to convert employed drivers into false self-employed, and encouraged exploitation of cheap labour in road transport. The ETF cited information coming from its affiliated trade unions and a number of company works’ councils according to which, due to the economic crisis, many large operators and delivery companies have converted their employed drivers into fake self-employed drivers to save on labour costs.

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<sup>92</sup> Interview, MEP, 31 August 2010

This unfortunate development had led to social deregulation in road transport sector, depriving drivers of a fair pay and social welfare benefits (for ETF campaign material, briefing notes, and statements, see ETF, 2010). The ETF regretted that the European Commission had not consulted the social partners before issuing its proposal, which was argued to be grounded on ten year old statistics.

Interest groups supporting the exclusion of self-employed drivers from the directive included a large number of European and national industry associations, such as the International Road Transport Union (IRU), BusinessEurope (formerly UNICE, the Union of Industrial and Employers' Confederation of Europe), EuroCommerce, the European Construction Industry Federation (FIEC), European Express Association (EEA), Federation of European Movers Associations (FEDEMAC), the European Association for forwarding, transport, logistic, and customers services (CLECAT), and SMEs, such as the European Association of Craft, Small and Medium-sized Enterprises (UEAPME), the European Road Haulers Association (UETR), the British Federation of Small Businesses (FSE), and the European Small Business Alliance (ESBA). All employers' associations recognised the problem of fake self-employed drivers and supported the European Commission's proposal to crack down on illegal fake self-employment. They argued that it was unnecessary to include genuinely self-employed lorry drivers within the scope of the directive as existing EU regulation was found to be sufficient to secure road safety. For example, EU rest and driving time regulation limits driving time to an average of 45 hours per week (averaged over two weeks), and requires a daily driving limit of nine hours as well as a minimum of 45 minute break after every period of four and a half hours of driving.

Most employers' associations found statements by trade unions that self-employed drivers have the possibility to work up to 86 hours per week every week per year, invalid. They argued that the main aim of the road transport directive is to protect employees from abuse by their employers by limiting working hours and guaranteeing social protection.

Therefore, they saw no need to regulate the working time of genuinely self-employed people, who set their own work routines and do not need protection from themselves. Moreover, it was argued that the current economic climate calls for flexibility in the working hours of the self-employed to keep their business afloat. Including the self-employed in the scope of the road transport directive was regarded as setting a dangerous precedent of regulating working hours for self-employed people, and deprives self-employed drivers of their prerogative to organise their work as they see fit. In no other sectors are self-employed limited by working time legislation, which is meant for social protection of employees (IRU, 2009, 2010).

SMEs contended that restricting the working hours of self-employed drivers would deny them their entrepreneurial spirit, lead to loss of competitiveness, and contravene with the EU's efforts to promote entrepreneurship, e.g. the 'Think Small First' principle. The Think Small First principle aims to improve the EU's overall approach to entrepreneurship by taking SME's interests into account when drawing up new EU legislation. The principle requires the European Commission to 'seek wherever possible to exempt micro-enterprises from EU legislation or introduce special regimes so as to minimise the regulatory burden on them' (European Commission, 2011b). SMEs argued that regulating the working time of the self-employed would lead to a loss in company formations, which was seen as a regrettable development as many of the existing road haulage companies started as sole traders. Although employers' associations were more numerous than the trade unions, the IRU was faced with one major obstacle: internal division. Some of the IRU's national member associations (such as its French, Portuguese and Spanish affiliates) were for the inclusion of the self-employed drivers. The IRU's internal division proved to be one of the 'death blows' to their chances of influencing the EP.

### **5.3 The EP policy process and outcome**

Many MEPs had for a long time been against excluding self-employed drivers from the scope of the working time directive. On October 2008, the EP adopted an own-initiative report that demanded for the full inclusion of self-employed drivers (European Parliament, 2008), and called on member states to implement the 2002 road transport working time directive (i.e. include self-employed drivers as of 23 March 2009). The report was written by the S&D MEP Alejandro Cercas, but carried no formal legislative weight as the EP's own initiative reports do not oblige the European Commission to act upon them. When the report was adopted, the centre-left had the majority in the EP. However, when the European Commission put forward its 2008 proposal, the centre-right had the majority following the 2009 EP elections. The change in the EP's ideological composition meant that those political groups that had previously been against regulating the working time of self-employed truckers now held the majority in the EP. One would therefore expect the majority of MEPs to support the European Commission's proposal to exclude the self-employed from the working time directive permanently.

The European Commission's proposal was examined by the EP's employment and social affairs committee (EMPL) as the responsible committee during the sixth parliamentary term (2004-2009). The report was allocated to the EPP group, who appointed Marie Panayotopoulos Cassiotou (Greek EPP MEP) the role as rapporteur. She supported the European Commission's approach to exclude self-employed drivers from the road transport directive, and to tackle the problem of the false self-employed. Her report was, however, not supported by EMPL MEPs, who adopted an amendment - put forward by GUE/NGL, Greens, and PES (now called the S&D group) MEPs - rejecting the European Commission's proposal. EMPL MEPs recommended a rejection of the European Commission's proposal on grounds that it conflicted with the EP's

demands for the full inclusion of self-employed drivers within the scope of the road transport directive after the transitional period by 23 March 2009. At its plenary session on 5 May 2009, the EP confirmed the employment committee vote against the European Commission's proposal to exclude self-employed drivers from the working time rules. The EP called on the European Commission to withdraw its proposal to amend the road transport directive, and take appropriate steps with Parliament to issue a new proposal. The European Commission did not, however, withdraw its proposal and the matter was therefore referred back to EMPL in accordance with Rule 56(3) of Parliament's Rules of Procedure (European Parliament, 2012). Most interviewees attributed the EP's rejection of the European Commission's proposal to a lack of lobbying from employers' associations, and the fact that many MEPs were not present at the plenary because they were home campaigning for the upcoming 2009 EP elections.

At the start of the seventh parliamentary period (2009-2014), the EMPL committee decided to examine the European Commission's proposal anew rather than simply confirming the last Parliament's rejection. As Marie Panayotopoulos Cassiotou was not re-elected, Slovakian centre-right MEP Edit Bauer was appointed the role as rapporteur for the EPP group. The rapporteur and a majority of the EPP, ALDE and ECR members supported the European Commission's approach to tackle the problem of the false self-employed rather than bringing genuine self-employed drivers within the scope of the road transport directive. The centre-right political groups in the EP argued that the driving hours and rest periods of self-employed drivers are already regulated, and that setting limits on their hours for activities other than driving would be unenforceable in practice. Instead, they supported the European Commission's approach to provide a more detailed definition of what constitutes a self-employed driver in order to single out those trying to play the system. During the committee discussions four arguments were frequently aired by members, who



supported the exclusion of the self-employed drivers from the scope of the directive:

- No statistics show that self-employed drivers are more frequently involved in road traffic accidents than salaried drivers. MEPs frequently referred to the latest European Commission's 'Truck Accident Causation' statistics show that trucks are involved – not responsible – in around six per cent of road accidents (European Commission, 2003).
- Regulating the working time of self-employed truckers is impossible to enforce in practice because the amount of hours worked outside driving time cannot be checked; only driving hours can be directly monitored through tachographs installed in vehicles.
- In the current economic climate, legislators should avoid creating unnecessary red tape for enterprises.
- There is no precedent of regulating working time of the self-employed. The idea of being self-employed is synonymous with a freedom to set your own working hours, and should not be tampered with.

The quote below shows a typical argument used by MEPs favouring the exclusion of self-employed truckers from the scope of the directive:

There is no data relating accidents to the working time of professional drivers and no data distinguishing between employed and self-employed drivers. Therefore, we have no data on a decision to include self-employed drivers. Legislation must be based on sound reliable data. All the scaremongering about self-employed drivers working 86 hours per week and causing accidents is just scaremongering, and is not based on any reliable data [...]. This legislation, if it includes self-employed, will be virtually unenforceable. Are we to have an army of inspectors looking over the shoulders of

self-employed workers to see if they are performing general administrative duties or administration relating to their job (European Parliament, 2010f).

MEPs taking the other side of the argument drew on ETF's line of reasoning, citing the risks to road safety if the working time of self-employed truckers was not regulated. Several MEPs denounced the European Commission for taking a U-turn on the directive from initially supporting the inclusion of self-employed drivers back in 2002 to recommending their exclusion six years later. As the S&D coordinator - Spanish MEP Alejandro Cercas - expressed during an EMPL committee debate:

There is no real openness to any real dialogue...the European Commission has broken the consensus that existed between the European Commission, the Council, and the European Parliament in the past [to include self-employed drivers within the scope of the directive]. My hair stands on the end that the European Commission says that tiredness has nothing to with health and safety. I'm scandalised that the European Commission doesn't find the directive enforceable (European Parliament, 2009a).

The debate in Parliament boiled down to one issue: the inclusion or exclusion of self-employed drivers in the working time directive. Few interviewees thought that there was any room of manoeuvre for a compromise in Parliament given the black and white character of the issue. 'The nature of the issue – for or against the exclusion of the self-employed - made Parliament completely unmovable and really gridlocked Parliament'.<sup>93</sup> The rapporteur (Belgian S&D MEP Said EL Khadraoui) in the opinion-giving committee, TRAN, tried to go some way to find a compromise. His report suggested that digital tachographs should not only measure driving times and rest periods, but also loading and unloading operations, supplemented by an unmonitored fixed time

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<sup>93</sup> Interview, ETF, 20 July 2010

for a number of other activities, such as administrative tasks and cleaning. As he explained:

I tried to make some compromises in my report. I wanted to include the self-employed drivers, but I also wanted to pay attention to that it's difficult to enforce. That is why I worked on making a different definition of working time for employed and self-employed drivers, such as including a weekly fixed time covering administrative work.<sup>94</sup>

Said EL Khadraoui's report did not, however, garner support by a majority of MEPs in TRAN; 21 MEPs voted for his report and 21 against. This meant that the report was rejected and that there was no official opinion from TRAN. Many of the amendments put forward in EL Khadraoui's draft report were tabled as the S&D's fall-back position at the plenary in the event that the amendment rejecting the European Commission's proposal would not go through. These amendments were, however, never voted upon as MEPs adopted an amendment, which recommended rejecting the European Commission's proposal. At the EP's plenary session on 16 July 2010, a majority of MEPs voted for the rejection of the European Commission's proposal with 383 MEPs voting for the rejection, 263 voting against, and 23 abstaining. The upshot of the vote meant that self-employed drivers remain within the scope of the road transport directive. The winning coalition consisted of the S&D, the Greens/EFA, GUE/NGL, and a large number of national EPP delegations (France, Italy, Portugal, Spain, Greece, and Belgium). The rapporteur's biggest enemy was her own group with only 30 per cent of EPP MEPs toeing the group line. The EPP was more cohesive in the sixth EP than in the seventh EP on the road transport directive with 85 per cent of EPP MEPs toeing the EPP group line in the sixth EP compared with only 30 per cent in the seventh EP. 46 per cent of EPP MEPs was re-elected for the seventh parliamentary period. 11.5 per cent of the EPP MEPs that

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<sup>94</sup> Interview, S&D MEP, 16 November 2010

supported the European Commission's proposal in the sixth EP rejected it in the seventh EP, showing a significant mind change among EPP MEPs (VoteWatch, 2009, 2010b). During the plenary debate on 15 June 2010, the evening before the vote, the rapporteur was highly criticised for flouting Parliament's operating rules. Several MEPs accused her for putting forward her own group's position during the trialogue meetings rather than the EP's view, as voted in EMPL. As the shadow rapporteur from the S&D group, British MEP Stephen Hughes, argued during the plenary debate:

We very much regret the confusion the rapporteur appears to have encountered in discharging her mandate. Rather than reflecting and promoting the clear majority views of members of the European Parliament's employment committee, she has actively worked to promote the view of the European Commission and the Council (European Parliament, 2010f).

The rapporteur had hoped that her group would support her stance to exclude self-employed drivers from the road transport directive. Only the evening before the plenary vote, did it become apparent that a large number of EPP national delegations had swung to the left following what the rapporteur called 'a text book example of how influential lobbyists can be in Parliament'.<sup>95</sup> The EP's rejection of the European Commission's proposal was welcomed by trade unions, but was met with disappointment by employers' associations and SMEs. The IRU saw the outcome as a pyrrhic victory for the trade unions rendering the inclusion of self-employed drivers within the scope of the directive as unenforceable paper law.<sup>96</sup>

Through-out the EP's policy process, it could be observed that several EPP MEPs changed their mind from supporting the European Commission proposal to opposing it, or from not having a position to being for the rejection of the proposal. All the MEPs and EP staff (MEP

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<sup>95</sup> Interview, Edit Bauer, 16 November 2010

<sup>96</sup> Interview, IRU, 17 August 2010

assistants and policy advisors) interviewed for this case study argued that the EPP had reached a ‘critical mass’ of dissident MEPs, where it became legitimate to divert from the group line. It is generally considered good practice for leaders of national delegation to alert the group secretariat if they intend to divert from the group line. This is because differences within groups are often sought to be ironed out before plenary votes. Group positions are not imposed from the top, but are defined through a process of discussion and negotiation, involving the coordinator from the relevant committee, the leadership, and heads of the national delegations. If common ground cannot be found between a national party delegation and the rest of the group, rebel delegations and rebel MEPs are expected to notify their group about any departing from the group line (Ringe, 2010). In the case of the road transport working time directive, only the French EPP national delegation had notified the EPP of its departure from the group line. Only on the evening before the plenary vote did it become apparent that a considerable number of the EPP’s national delegations intended to vote against the official group line. As expressed by the rapporteur’s assistant:

The vote was an absolute disaster. The division within the EPP was due to lobbying pressure from the trade unions and misleading information by some of our MEPs. From the beginning, the French delegation was against the formal EPP position then the Italians and Spanish delegations followed. Hours before the vote this just cumulated and cumulated and, in the end, one third of our members either voted against the group line or abstained.<sup>97</sup>

Table 5.1 shows how the EPP national delegations voted at the plenary with dissident delegations highlighted in grey. A high number of national EPP delegations voted for the inclusion of self-employed lorry drivers in the directive, i.e. rejected the Commission’s proposal.

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<sup>97</sup> Interview, EPP MEP assistant, 28 September 2010

Table 5.3: The voting behaviour of the EPP's national delegations, 16 June 2010

<i>EPP</i>	<i>For</i>	<i>Against</i>	<i>Absent or did not vote</i>
<i>Austria</i>	2	4	
<i>Belgium</i>	4		
<i>Bulgaria</i>	6		
<i>Cyprus</i>	1	1	
<i>Czech Republic</i>		2	
<i>Denmark</i>		1	
<i>Estonia</i>		1	
<i>Finland</i>		4	
<i>France</i>	25	4	
<i>Germany</i>	6	36	
<i>Greece</i>	7		
<i>Hungary</i>	3	11	
<i>Ireland</i>	1	4	
<i>Italy</i>	26	3	6
<i>Latvia</i>	1	2	
<i>Lithuania</i>	2	1	1
<i>Luxembourg</i>	2	1	
<i>Malta</i>		2	
<i>Netherlands</i>		4	1
<i>Poland</i>		25	3
<i>Portugal</i>	6	2	2
<i>Romania</i>	5	7	2
<i>Slovakia</i>		6	
<i>Slovenia</i>	1	1	1
<i>Spain</i>	14	4	5
<i>Sweden</i>		5	
<b><i>Total</i></b>	<b>112</b>	<b>95</b>	<b>21</b>

Source: VoteWatch (2010b).

The official line of the EPP was to exclude self-employed drivers from the scope of the directive. French MEPs were opposed to the European Commission's proposal from the outset because their government supported the inclusion of the self-employed in the regulation. Belgian, Greek, Italian, Portuguese, and Spanish MEPs followed suit because of lobbying from trade unions.

The MEPs and assistants from the S&D and the Greens as well as the French EPP delegation formed a lobbying coalition with the ETF in which they sought to lobby wavering MEPs by applying both internal pressure from MEPs and external pressure from the trade unions. This ad hoc lobbying coalition met frequently during the EP's processing of the road transport directive to coordinate their strategies. As a representative from the ETF explained 'we met with them [the French EPP delegation], they told us who to lobby and we passed this information on to our affiliates, the affiliates then reported back to us and we reported back to the Parliament'.<sup>98</sup> The remainder of this chapter discusses the various factors influencing the policy outcome and explains how the trade unions managed to divide the EPP group, and secure a rejection of the European Commission's proposal.

## **5.4 What factors explain the outcome?**

Rebel EPP delegations voted against the official EPP line for various reasons. Italian EPP MEPs' rejection of the Commission's proposal was inextricably tied to what several interviewees referred to as 'the Slovenian problem'. North Italy faces a problem with unfair competition from Slovenian drivers, who are willing to work longer hours for lower pay. In Italy the government as well as employers and trade unions agree that the directive should cover the self-employed, putting Italian MEPs under pressure to follow suit. The ETF together with legislative allies in the EP

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<sup>98</sup> Interview, ETF, 20 July 2010

were acutely aware of playing on country specific circumstances in order to win over wavering MEPs. As a representative from the ETF explained:

We knew, for example, that North Italy has a problem with unfair competition from self-employed drivers from other member states, and many independent operators have already been out of business because of this cross-border competition. We therefore put pressure on Italian social partners to lobby Italian EPP MEPs.<sup>99</sup>

In Spain, the government was in favour of rejecting the European Commission's proposal, although they were speaking out less strongly than the French government. Similar to the case of Italy, Spanish social partners were for the inclusion of the self-employed within the legislation. However, according to the EPP rapporteur, Spanish EPP MEPs were initially supporting the European Commission's proposal, but changed their minds following lobbying from Spanish trade unions and pressure from Spanish socialist MEPs. Several of the interviewed EPP MEPs and policy advisors found that the assistant of the S&D EMPL coordinator was very influential in convincing Spanish EPP MEPs to vote against the EPP group line. As one interviewee explained:

In terms of the position of Spanish EPP MEPs....a lot was due to some excellent contact from the socialist office of Mr Cercas. His assistant has excellent contact to all levels in Spain, and here I would really say that it's the individual that makes the difference. She has enormous influence, and she has direct contact into the EPP Spanish delegation, the government, state secretary etc. She launched a major lobbying campaign towards Spanish EPP MEPs with Spanish trade unions. As far as I'm concerned, she organised calls from Spanish social partners to Spanish EPP members. She contacted the Spanish trade unions and encouraged them to lobby Spanish EPP members.<sup>100</sup>

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<sup>99</sup> Interview, ETF, 20 July 2010

<sup>100</sup> Interview, EP policy advisor, 17 November 2010



The example highlights that MEPs and assistants also initiate contact with interest groups, especially those interest groups they already know support their views. As Hall and Deardorff (2006) note, legislative offices often contact likeminded interest groups for support. Contrary to conventional understandings of lobbying ‘interest groups sometimes feel pressured from legislators to produce’ (Hall & Deardorff, 2006, pp. 77-78). The lobbying pressure exerted by the ETF and its legislative allies in the EP is one key factor attributing to the split within the EPP group. While employers’ associations also targeted key MEPs and assisted the rapporteur in writing her report, none of them engaged in a strategic lobbying coalition with MEPs. Four explanations for the trade unions’ lobbying success were frequently mentioned during interviews, each of which is elaborated further in the remainder of this chapter:

- They were faced with low resistance from the employers’ associations because the employers’ associations were internally divided.
- They managed to shape MEPs’ interpretation of the European Commission’s proposal from an early stage.
- They used a combination of lobbying techniques that appealed to MEPs and made the issue visible in the media, amongst the EU citizens and in the EP.
- EMPL MEPs are generally more open to the demands of trade unions than employers’ associations.

#### *5.4.1 The employers were divided*

The International Road Transport Union (IRU) was internally divided because their Italian, Spanish, and Portuguese associate members were in favour of regulating the working time of self-employed bus and lorry drivers. Many interviewees generally described the IRU as inherently

weak due to their oft-occurring inability to reconcile divergent national interests and to arrive at anything but a lowest common denominator. Owing to internal rife and cumbersome internal decision-making procedures, the IRU only started lobbying MEPs when EMPL had finished its deliberations on the dossier. This was a major disadvantage for the IRU because they could not lobby MEPs from an early stage. The IRU obtained a mandate from the majority of its members in February 2010. At this point, the deadline for suggesting amendment to the rapporteur's report in EMPL had been exceeded, and the position of many MEPs and political groups had already become entrenched.

Danish and Dutch members of the IRU found that the IRU is a very bureaucratic and inflexible organisation, ill-suited to act swiftly. The IRU holds bi-annual meetings with its member associations, aimed at obtaining lobbying mandates from its members. This puts the IRU in an awkward position because these meetings are not tailored to meet important deadlines in the EU policy process (such as deadlines for amendments in the EP), and sometimes prevent them from becoming active early on in the policy process. The split within the IRU worked in favour of the ETF, who could lobby MEPs from the beginning of the EP policy process without much competition from employers' associations:

We were really lucky that the employers were divided. We cannot match their resources. We only have two people working on this issue at the ETF. It would definitely have been more difficult if the employers had been united. Both the IRU and SMEs have a vast number of people working on this dossier. We had to prioritise this issue. We left everything else to deal with this issue. It was of prime importance to us.<sup>101</sup>

As indicated by the quote above, the ETF focused all of its attention on the road transport working time directive. This is not an uncommon strategy amongst trade unions because labour interests often have a narrower focus and greater homogeneity than businesses (Greenwood,

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<sup>101</sup> Interview, ETF, 20 July 2010

2011, p. 121). The greater homogeneity amongst trade unions makes it easier for them to gain a mandate from their member associations than businesses (Streeck & Schmitter, 1985; Traxler, 1991). Labour unions often share a common belief system and a high degree of union solidarity, which ostensibly makes it easier for trade unions to influence the position of their members than the case of employers' associations (Offe, 1981). This does not mean that the European trade union federations always display internal unity as they are also, from time to time, hostage to national division owing to the diversity in member states' social models.

Although the IRU was divided, the ETF did not have the EP lobbying arena all to themselves as several national employers' associations in favour of the European Commission's proposal lobbied Parliament. Six of the IRU's member associations for road hauliers from Denmark, the Netherlands, the UK, Sweden, Finland, and Germany formed a lobbying coalition, urging MEPs to support the rapporteur and not reject the European Commission's proposal. As a representative from Transport en Logistiek Nederland (TLN) explained:

We [the IRU] disagreed amongst ourselves and that was the deathblow to our chances of influencing Parliament's position. We [TLN] therefore joined forces with five other IRU associations. The six of us wrote joint lobbying letters and went to see MEPs together to show MEPs that we were united, and represented a significant number of industry associations. Because I devoted so much time on lobbying Parliament, I saw the outcome as a personal defeat.<sup>102</sup>

Much to the surprise of Dutch and Danish IRU members, 'the IRU appeared less divided than initially anticipated once it had finished its internal procedure for obtaining a mandate from its members'.<sup>103</sup> In the end, only Spanish, French and Portuguese IRU members were against the

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<sup>102</sup> Interview, TLN, 2 November 2010

<sup>103</sup> Interview, DTL, 10 November 2010

IRU's common position, and Danish and Dutch members regretted that the IRU had not managed to obtain a mandate at an earlier stage.

#### *5.4.2 The ETF managed to set the discourse in Parliament*

The ETF had a very clear and simple message: say no to an 86-hour working week for professional drivers as it undermines safety on the roads for all of us. The ETF used politically charged slogans, which struck a clear cord with MEPs, who were sensitive to the trade unions' arguments of road safety. As seen in Chapter 4 on the food labelling regulation, MEPs have a tendency to vote with their hearts when interest groups manage to couch debates in terms of 'ethics' and 'emotions'. In the case of the road transport working time directive, once the ETF's argument of road safety was rooted in the EP, it was difficult for employers' associations to sell their arguments about avoiding burdening the private sector during the economic downturn. As a representative from the IRU explained:

For us the directive is a pure labour market issue focusing on the potential economic consequences. That side of the coin was somewhat ignored. Once the idea of road safety was entrenched in the EP, it was difficult for us to reason otherwise. ETF build their campaign around fear, the fear of road safety, everyone can be a victim.<sup>104</sup>

Employers' associations found it immensely difficult to counteract the ETF's arguments of an 86-hour working week. In retrospect, many of the interviewed employers' associations regret that they did not develop more cogent arguments earlier in the process. Many MEPs and trade unions found the arguments put forward by the employers' associations to be vague. In a hearing organised by the EPP and the ECR group on 12 May 2010, a month before the vote in plenary, employers' associations

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<sup>104</sup> Interview, IRU, 17 August 2010

were - according to the ETF - unable to counter the ETF's arguments in any convincing way:

We [the ETF] only had one slot out of eight speakers, all employers' associations, and they were not able to counter-argue with our arguments. EPP MEPs were mainly asking us questions, and you could see that many EPP MEPs were trying to make up their mind.<sup>105</sup>

Many of the employers' associations and MEPs in support of the European Commission's proposal saw the ETF's campaign as a scaremongering campaign: if you don't reject the European Commission's proposal, even more people will die on the roads. The ETF managed to change the framing of the directive from a labour market issue to a public issue of road safety. Whilst the road transport working time directive is a typical interest group politics case, the ETF managed to frame it as an entrepreneurial politics case, in which regulating working time of self-employed truckers would benefit the wider public in terms of safer roads.

#### *5.4.3 The trade unions had a more successful lobbying approach*

The trade unions were more successful in their lobbying approach than employers' associations because they used a more varied lobbying approach combining direct lobbying (meetings with MEPs and targeted lobbying letters) with demonstrations and lorry convoys outside the EP in Brussels and Strasbourg. Inside the EP, the ETF and its national member associations worked closely with MEPs supporting their views. By providing arguments and figures to friendly MEPs (allies) and lobbying unconvinced MEPs, they managed to gather a large majority in favour of

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<sup>105</sup> Interview, ETF, 20 July 2010

rejecting the European Commission's proposal. As a French EPP assistant told me:

The ETF was doing miracles in Parliament. We told them who to lobby and they provided us with crucial figures and arguments. In the beginning it was only the French delegation within the EPP that was against, but with the help from the ETF we managed to convince the Italian, the Spanish, the Greek and the Belgian delegation.<sup>106</sup>

A key S&D MEP confirmed the crucial role played by the ETF:

I don't think we could have won the vote in plenary without the ETF. They played a very crucial role and we had a very nice team-work. It was thanks to pressures coming from the outside [the trade unions] and from the inside [MEPs] that brought us the victory.<sup>107</sup>

The ETF's close lobbying coalition with MEPs and staff from Parliament's French EPP delegation, S&D group, and the Greens/EFA is crucial to understanding the voting outcome in Parliament. The road transport working time directive provides an excellent example of what Hall and Deardorff (2006) would describe as 'legislative subsidy' – organised interests take up the role of being a service bureau or adjuncts to staff for carefully selected legislators in support of shared policy objectives. Lobbying as legislative subsidy is regarded as:

A matching grant of policy information, political intelligence, and legislative labour to the enterprises of strategically selected legislators. The proximate political objective of this strategy is not to change legislators' minds but to assist natural allies in achieving their own, coincident objectives [...] Interest groups freely but selectively provide labour, policy information, and political intelligence to likeminded but resource constrained legislators, and expand legislators' effort

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<sup>106</sup> Interview, EPP assistant, 22 July 2010

<sup>107</sup> Interview, key MEP, 20 August 2010

at making progress toward a policy objective that interest groups and MEPs share (Hall & Deardorff, 2006, pp. 69-75).

The trade unions were particularly astute at providing political intelligence to their legislative allies so that the latter could exert lobbying pressure on their colleagues. According to Hall and Deardorff (2006), lobbying should be regarded as a 'matching grant' rather than a 'simple grant' as legislators 'bring something to the endeavour that interest groups cannot' (Hall & Deardorff, 2006, pp. 75). While interest groups can furnish legislators with issue-relevant expertise and experience, MEPs and assistants can draw on their institutional access to the policy process, their legislative contacts and political capital with colleagues to influence the policy outcome. Thus, merely providing 'info-drops' is not sufficient for interest groups to be influential, but the ETF was particularly effective as they worked through legislative allies' offices.

One parliamentary forum proved particularly fruitful for the ETF's ability to influence MEPs on the road transport directive: the trade union cooperation intergroup (see Chapter 1 for more information about the EP's intergroups). The secretariat of this intergroup is run by the ETUC together with two MEPs from the S&D (Spanish Alejandro Cercas) and the EPP group (French Elisabeth Morin-Chartier), and they meet once a month to discuss on-going legislation. The intergroup is shrouded in secrecy because some of its meetings are closed and by invitation only. The intergroup meetings are divided into open plenary debates held in Strasbourg and closed bureau meetings held in Brussels.

The trade union cooperation intergroup provides a potent link between the European trade unions and MEPs favourable to their cause. This 'special relationship' has led the former UNICE (now BusinessEurope) Secretary General, Zygmunt Tyszkiewicz, to criticise the intergroup for providing the trade unions with a 'privileged relationship with the European Parliament which shares its objectives and consistently passes resolutions by a large majority, advocating social

policies that business finds unacceptable' (Stern, 1994, p. 141). On the road transport directive, the intergroup provided the ETF with a unique opportunity to influence key MEPs' interpretation of the European Commission's proposal.<sup>108</sup> While the influence of intergroups is difficult to 'measure', all EP interviewees saw them as immensely important for building long term relationship with MEPs and their EP staff. Much to the regret of some of the IRU members, the IRU is not active in any parliamentary intergroups.

Outside the EP, the ETF organised demonstrations raising the awareness of the issue in the media. In February and March 2010, the ETF organised a European truck-convoy, crossing several EU countries before ending its journey in Brussels. This convoy aimed to raise public awareness of the impact of drivers' fatigue on road safety. On 28 April 2010 - the date of the EMPL committee vote - another lorry convoy, organised by the ETF, took place in Brussels' European district to protest against the introduction of an alleged 86-hour working week for self-employed drivers if Parliament did not reject the European Commission's proposal. For one hour, 15 lorries and busses drove around the buildings of the EP, the European Commission, and the Council. Trade union activists from throughout Europe joined the convoy (see ETF, 2009). The simplicity of the road transport working time directive - for or against the inclusion of the self-employed - made it easy for the ETF to mobilise its rank and file members. A representative from the ETF explained that the simplicity of the issue was important for mobilising their members:

What really made it stand out, compared to other directives, was that it was a clear-cut issue. It had a simple message, which made it easy to transmit our message to the rank and file members. You cannot do the same thing on other more complicated issues as you then need to devote more time to explaining the issue. The fact that we could mobilise the rank and file member had a clear value for our lobbying. Within a year and a half we were able to organise three demonstrations

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<sup>108</sup> Interview, key MEP, 20 August 2010



and one lobby convoy. When we have the revision of the digital tachographs, it will be much more difficult to mobilise our members as it is a very complex issue. On this issue, we need to organise our campaign in a different way, and it will be more focused on direct lobbying.<sup>109</sup>

The simplicity of an issue has a clear impact on interest groups' chosen lobbying strategy. The easier the lobbying message is, the easier it is to mobilise national members of European federations, provided that unity between national affiliates can be found. One thing missing from the employers' associations lobbying arsenal was demonstrations. Both the rapporteur and EPP advisors urged the IRU to arrange demonstrations outside the EP to increase their visibility. However, the IRU did not want to use demonstrations as part of their lobbying strategy:

We in the IRU have a policy of being against demonstrations, especially if they cause a disruption to free movement of traffic. Our members simply haven't got the time to come onto the streets en masse. They're businessmen, who are working and they can't be taken away from their jobs very easily.<sup>110</sup>

Several members of the IRU as well as SMEs found it illogical that employers' associations did not want to engage in demonstrations as they would have had more visibility if they had also 'gone to the streets'. One Italian interviewee from the European Road Hauliers Association (UETR) thought that employers' associations in Brussels had a very different attitude to demonstrations than the case of Italy:

In Italy employers' associations frequently demonstrate. In Brussels employers' associations take a different approach 'we are lobbyists, we have a tie, and we don't get our hands dirty'. It's nonsense. It's not easy to convince an entrepreneur to do a demonstration for one or two days as they will lose money, but you can do if you present him or her with the situation. The working time directive in road transport is really something

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<sup>109</sup> Interview, ETF, July 2010

<sup>110</sup> Interview, IRU, 17 August 2010

that impact on self-employed drivers' future economic activity, you can engage them.<sup>111</sup>

Not only did employers' associations refuse to do demonstrations, the IRU's lobbying approach was also seen to be rather unfortunate at times. One IRU member association criticised the IRU for sending too long position papers to MEPs:

3-4 pages are just too much. No-one is going to read them [...] The IRU mainly lobby Parliament on specific dossiers rather than constantly building and nurturing contacts with MEPs and their assistant. I would like the IRU to engage more in what I call 'narrative' lobbying by continuously trying to enhance MEPs' understanding of the transport sector. It's of little use to contact MEPs when the fat is in the fire! It's the long-term contacts that matter as you can draw on these in specific situations.<sup>112</sup>

The same interviewee thought that the IRU sometimes uses inappropriate names for its lobbying activities towards the EP. At Parliament's plenary setting in June 2010, the IRU had arranged an event with a number of MEPs in Strasbourg prior to the vote on the road transport directive. Initially the IRU called this event a 'reception', but:

Luckily we managed to change the wording to 'a briefing' instead of a 'reception'. The road transport directive is a directive with an enormous financial impact on road hauliers across Europe. We cannot give our members the impression that we spend our time drinking cocktails with MEPs at fancy receptions.<sup>113</sup>

The failure of the IRU to lobby the EP successfully is to be seen as a combination of different factors including slow internal decision-making procedures, internal disagreement, unwillingness to use outside lobbying strategies (such as demonstrations), and an unfortunate lobbying

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<sup>111</sup> Interview, UETR, 27 September 2010

<sup>112</sup> Interview, DTL, 10 November 2010

<sup>113</sup> Interview, DTL, 10 November 2010

approach (such as sending too long position papers to MEPs). Contrary, the ETF's approach of engaging in a close lobbying coalition with legislative allies in the EP combined with visibility in the media through demonstrations and convoys, and a short and simple lobbying message proved to be very efficient for its ability to influence MEPs' position on the road transport working time directive. Additionally, the trade unions were faced with a friendlier lobbying environment because the EP's EMPL committee is regarded as particularly open to the views of employees.

#### *5.4.4 Contextual factors: MEPs are more favourable to the views of employees than employers*

All the 31 interviewees for this case study found that EMPL MEPs tended to be more favourable to the views of employees than that of employers. This is not only the case for the road transport working time directive, but also for other recent legislative dossier, subject to the ordinary legislative procedure. EMPL's position on other recent dossiers - such as the revision of the general working time directive (European Commission 2004) and the temporary agency work directive (European Commission 2008g) - was more favourable to labour unions than to employers' organisations. The EP also tilted more towards the views of trade unions than employers' associations on the EU's recent (failed) attempt to revise the general working directive; MEPs did not want to give any room for manoeuvre on on-call time, rest periods, and the possibility of opt-outs (ETUC, 2008; EurActiv, 17 December 2008). All interviewees of this case study thought that most EMPL MEPs are drawn to the committee because they have a genuine passion for improving the rights and conditions for employees. EMPL's bias towards labour unions has prompted many employers' associations to divert their attention away

from the committee to the plenary. As a representative from UEAPME said:

It is really difficult for us to get our views across in the employment committee [...] we are much more powerful in the plenary sessions. Here we can really play on the group system and the group discipline. This is our best chance, and this is what we are exploiting.<sup>114</sup>

This does not mean that employers' associations have a tough time in the EP on all policy issues. The openness to labour unions seems to be particularly prominent on issues relating to working time, and health and safety at work. UEAPME found that they were better heard by the Council than by Parliament on social and employment affairs. Most interviewed employers' associations thought that the EP's voting outcome on the road transport working time directive would have been different had TRAN been the committee in charge of scrutinising the Commission's proposal instead of EMPL. All interviewees viewed TRAN MEPs as more open to industry demands because the committee was seen to pay closer attention to transport matters than social matters. This was also a view held by the ETF, who found TRAN members to be more conservative than EMPL members:

The transport committee is much more conservative in their views in terms of issues pertaining to the internal market. They tend to focus on liberalisation, rather than social issues. In that sense, we were lucky that the issue went to the employment committee, who are more concerned with social issues. In the transport committee, they took issues on administrative burden much more on-board. In the Council, the issue was dealt with by the transport Council and in the European Commission by the transport DG. It is a bit of a conundrum that the issue went to the employment committee in the Parliament, which was probably to our benefit.<sup>115</sup>

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<sup>114</sup> Interview, UEAPME, 8 April 2010

<sup>115</sup> Interview, ETF, 13 October 2010

As seen in Chapter 4 on the regulation on the reduction of CO<sub>2</sub> emissions from vans, turf wars between different EP committees is an oft-occurring feature of the EP. Similar to the division between the European Commission's DG for Enterprise and Industry, and DG for Environment, DG for Mobility and Transport is seen to be more industry-friendly than DG for employment. As a representative from the ETF explained:

The European Commission's DG for Transport has an agenda that reflects the liberalisation and the internal market policies. In the Council, you have the governments, and now with the economic crisis, it doesn't help at all to have a social debate. They are very worried about everything that entails administrative burdens. The only institution that remains open to lobbying is Parliament.<sup>116</sup>

The quote shows that the revision of the working time directive in road transport in 2008 took place in a very different context (the financial crisis) than when the original directive was first formulated in 2008. In 1998, when the European Commission first proposed a sectoral working time directive for the road transport sector, the dossier was dealt with by DG for Employment and Social Affairs. However, when the European Commission proposed to revise the road transport working time directive in 2008, DG for Mobility and Transport was in charge. This might help explain why the European Commission made a U-turn on the dossier from supporting to opposing the regulation of the working time of self-employed bus and lorry drivers. Several of the interviewed employers' associations thought that the European Commission should have put more pressure on MEPs to support their proposal, and been more active in contacting MEPs. As a representative from the Danish Transport and Logistics Association (DTL) explained:

The European Commission is bad at keeping full accounts of its proposals. They did a poor job of selling their working time

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<sup>116</sup> Interview, ETF, 20 July 2010

in the road transport proposal to MEPs. They didn't manage to take up the battle with the EP. I think the outcome might have been different had the European Commission been more active.<sup>117</sup>

On 13 October 2010, ESBA sent a letter to the European Commission signed by 100 MEPs, urging the European Commission to bring the issue back to the EP in a redrafted form by specifically dealing with the issue of false self-employment (ESBA, 2010). While the majority of employers' associations regretted that the European Commission's proposal was rejected in Parliament, trade unions gathered their legislative allies from the EP for a reception on 29 September 2010 to celebrate the outcome and acknowledge their hard work and teamwork. As a representative from the ETF expressed, 'I was almost saddened when the battle was over as our working relation [between EP legislative allies and the ETF] had been so nice.'<sup>118</sup>

## 5.5 Conclusion

The road transport directive is not characterised by a compromise between employers' and employee associations. Rather, employees tend to prevail over employers. Policy did not shape policy as expected by Wilson's typology. This then raises the puzzle: why do common expectations about public policy in social and employment affairs not fit the EP? Why do employees prevail over employers' associations? The road transport directive shows that costs and benefits flowing from legislation do not operate in a vacuum because:

- Interest groups need time to mobilise.
- Some lobbying strategies are more successful than others.

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<sup>117</sup> Interview, DTL, 10 November 2010

<sup>118</sup> Interview, ETF, 13 October 2010

- Institutional characteristics pertaining to the EP committees make MEPs more receptive to some interest groups over others.
- The nature of a policy issue – whether it addresses the question of ‘more-or-less’ or ‘either/or’ – means that compromises on some policy issues are easier to obtain than on others.

Firstly, interest groups need time to mobilise, and obtain a mandate from their member organisations. The costs of obtaining internal unity within an interest group can be significant and explain why Wilson’s typology does not always match the empirical reality. While most business actors are likely to support market liberalisation and unnecessary burdensome regulation, the a priori assumption of a uniform business interest is problematic, especially when it comes to setting EU process standards. On the road transport working time directive, the ETF was faced with low resistance from the employers’ associations because the employers’ associations were internally divided. The split within the IRU worked in favour of the ETF, who could lobby MEPs from an early stage without facing much competition from employers’ associations.

Secondly, the ETF lobbying strategy of combining voice (lorry convoys and demonstrations outside Parliament) and access strategies (building alliances with key MEPs) was more successful than the strategies employed by employers’ associations. The ETF was particularly influential because they worked through the offices of carefully selected MEPs (i.e. French EPP delegation and S&D MEPs) rather than merely providing ‘info-drops’. The ETF’s long term contact with MEPs through its participation in the trade union cooperation intergroup proved to be very fruitful for its lobbying on the road transport working time directive because they could draw on existing contacts within the EP. Two aspects were missing from the IRU’s lobbying arsenal: demonstrations and close long-term contacts with MEPs through, for example, intergroup activity. The IRU did not want to engage in demonstrations and the interviewed

representative from IRU<sup>119</sup> explained that the IRU has a policy of being against demonstrations. The combination of internal disagreement within the IRU, slow internal decision-making procedures, and an inefficient lobbying approach proved detrimental for the IRU's ability to influence MEPs. Unlike the IRU, the ETF increased their visibility by sending the same information to MEPs using numerous tactics (access and voice strategies), thereby increasing the salience and urgency of their lobbying message. A majority of MEPs bought into the ETF's main argument of road safety, even though the Commission's impact assessment clearly stated the lack of statistics on the link between long working hours and road safety. This suggests that the ETF's lobbying success was not only about the information it provided to MEPs but also about how this information was conveyed. More importantly, the ETF managed to change the frame through which the directive was viewed from a labour market issue with concentrated costs and benefits (interest group politics) to a public issue of road safety with diffuse benefits and concentrated costs (entrepreneurial politics). This appealed to the EP's political face, emphasising its role as an arena for wider public debate. However, the type of information provided by the ETF did not amount to purely political information. While the ETF put forward value-laden claims (such as 'fatigue kills'), it based its arguments on survey data of long haul drivers and road accident statistics. The sources used by ETF can be seen as constituting a combination of political information and evidence-based information rather than technical information. Similarly, the IRU used politically charged arguments – such as referring to self-employed drivers' entrepreneurial spirit – rather than purely technical arguments.

Thirdly, EP committees are often biased towards their own policy remit, and MEPs from different committees require different type of information to fulfil their legislative and representative roles. All the

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<sup>119</sup> Interview, IRU, 17 August 2011



interviewed employers' associations found that EMPL MEPs were generally more receptive to the views of employees than that of employers. A similar trend could be observed in the case study on the vans regulation (Chapter 3) with ENVI often prioritising environmental over industry concerns. Unlike the vans regulation, the 'reinvented Hughes procedure' was not invoked on the road transport working time directive, and the issue was primarily viewed through the lens of social protection (to avoid social dumping) and road safety rather than a through a labour market issue that would focus in on the directives' economic consequences.

Lastly, it is questionable whether or not there would have been any room for compromises had employers' been united and had TRAN been given associate status (by invoking the Hughes procedure). The nature of the road transport directive as an 'either/or' issue - for or against regulating the working time of the self-employed - made the possibility of an inclusive compromise challenging. A typical EU strategy for dealing with 'either/or' issues is to use various escape routes, most often by kicking a controversial issue into the long grass (such as inserting review clauses or temporary exemptions). In 2002, the conflict over whether or not to include self-employed truckers within the scope of the road transport directive was, temporarily, solved by postponing the decision to a later stage. This delicate compromise did not reflect a compromise, where interest diversity was accommodated through mutual concessions, but rather it represented a compromise characterised by 'subterfuge by stealth' (Héritier, 1999). In 2008, when the European Commission was obliged to return to the issue of the self-employed, the black and white nature of the issue did not allow for mutual concessions between opposing groups to be granted. While compromises come in various shapes and forms, some issues do not easily lend themselves to compromises. Without the possibility of escape routes or other forms of legislative craftiness (such as kicking an issue into the long grass), interest diversity on highly ideological issues cannot easily be

accommodated, and consequently results in clear lobbying winners and losers.

## **Chapter 6: The Maternity Leave Directive: Who Pays for Equality?**

What length of maternity leave should employees be allowed to take? Should it be fully paid? Should fathers of new-born babies be allowed to have mandatory paternity leave? These questions have triggered heated and contentious debates in the EU following the European Commission's proposal to amend the existing maternity leave directive.<sup>120</sup> Under existing EU legislation, female employees are entitled to take at least 14 continuous weeks' maternity leave, two weeks of which are compulsory before or after confinement. In October 2008, the European Commission recommended to improve existing EU maternity leave provision by increasing compulsory maternity leave from 14 to 18 weeks, prohibiting lay-offs during this time, and granting women more flexibility in working patterns when resuming work. It also recommended that member states pay women their full salaries during maternity leave but with the option of member states to setting a ceiling at the level of national pay during sickness leave.

Two years later - in October 2010 - a majority of MEPs voted at first reading to boost the minimum duration of maternity leave to 20 weeks on mandatory full pay, to introduce two weeks' paternity leave, and significantly improve the rights of women upon returning to work after maternity leave. This was met with stiff resistance from employers' associations and many EU governments (particularly the UK, Malta and Germany), who reproached the EP for hamstringing companies and national security systems with new payrolls during the economic recession, being insensitive to the diversity in national maternity leave systems, and setting maximum - not minimum - standards. The EP's ostensibly uncompromising position on the maternity leave directive led

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<sup>120</sup> Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding

to a consortium of eleven member states, spearheaded by the UK and Germany, to freeze the directive in June 2011 in the hope that the European Commission might later withdraw its proposal (EurActiv, 16 June 2011). Since the proposed directive is subject to qualified majority voting, the consortium holds the right to shelve the proposal indefinitely.

The case represents an entrepreneurial politics case in which the costs of improving maternity provisions are concentrated on employers and the benefits widely distributed to all female employees. The theoretical expectation is for employers' associations to be more active during the policy process and to be more successful in leaving their fingerprints on Parliaments report than labour unions and women's rights' organisations. The aim of this chapter is, therefore, to understand why the EP took up a rather extreme first reading position on the maternity leave directive that was diametrically opposed to the views of employers' associations and several member states. This chapter is organised as follows: the next section introduces the European Commission's proposal; I then present the arguments used by employers' associations, member states, labour unions, and social NGOs; followed by an in-depth analysis of the impact of lobbying on the EP's policy process and first reading position.

### **6.1. The European Commission's proposal**

The proposal for a revised maternity leave directive forms part of a package of measures to improve work-life balance for all EU citizens. This package also includes a directive on the equal treatment of the self-employed and their assisting spouses, and a report on member states' progress towards the Barcelona targets<sup>121</sup> for childcare provisions

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<sup>121</sup> The Barcelona targets recognise the importance of childcare for economic growth and equal opportunities, and call on EU member states to provide childcare by 2010 to at least 90% of children between three years old and the mandatory school age, and at least 33% of children under three years old.

(European Commission, 2008c). The main objective of the European Commission's proposal for a revised maternity leave directive is to improve the protection offered to pregnant workers and workers who have recently given birth or are breastfeeding. In particular, the proposal extends the minimum length of maternity leave from 14 to 18 weeks, and recommends payment equivalent to 100 per cent of former salary (with a ceiling that cannot go below sickness pay). This increase is aimed at helping women recover from the immediate effects of giving birth, while also making it easier for them to resume work after ending their maternity leave.

Table 6.1 presents the main changes introduced to the existing 1992 maternity leave. The table shows that the current directive 92/85/EC uses the legal basis of health and safety (article 137 of the EC Treaty), whereas the proposal for a revised directive extends the legal basis to equal treatment (article 141). The European Commission's 2008 proposal provides female employees with stronger protection against dismissal and a right to return to the same job, or an equivalent post on terms and conditions that are no less favourable. The proposal also gives women returning from maternity leave the right to ask for flexible working patterns, although the employer has no obligation to accept this. Lastly, the proposal includes a stipulation that the provisions concerning the burden of proof should fall on the defendant (European Commission, 2008c).

Table 6.1: Changes proposed to the existing directive

<i>Key provisions</i>	<i>Directive 92/85/EEC</i>	<i>2008 proposal</i>
<i>Legal basis</i>	Article 137: Health and safety at work	Article 137: Health and safety at work + article 141 Equal opportunities between men and women
<i>Target group</i>	Pregnant workers, workers who have recently given birth or are breastfeeding	Unchanged
<i>Maternity leave duration</i>	14 weeks allocated before and/or after confinement with two weeks compulsory leave allocated before or after childbirth	18 weeks allocated before and/or after confinement with six weeks compulsory leave after the childbirth.
<i>Dismissal prohibition</i>	From the beginning of pregnancy to the end of maternity leave. If dismissal occurs within the above period, the employer must cite on duly substantiated ground for her dismissal in writing.	If dismissal occurs within six months following the end of maternity leave, the employer must cite on duly substantiated grounds for her dismissal in writing at the employee's request.
<i>Payment</i>	Adequate allowance at least at the level of sick leave	Adequate allowance guarantees income equivalent to the last monthly salary or an average monthly salary (not mandatory); must not be lower than sick leave.
<i>Employment rights</i>	Not mentioned	The right to return to the same job or an equivalent post, and to benefit from improvements.
<i>Flexible working patterns</i>	Not obliged to perform night work during pregnancy and for a period following childbirth	Unchanged + the right to ask the employer for flexible working patterns/hours (non-obligatory)
<i>Burden of proof</i>	Employee	Respondent (employer)

Source: Council of the European Union (1992); European Commission (2008c)

### *6.1.1 The cost/benefit profile of the proposal*

The costs of improving EU maternity leave provisions differ across member states depending on how close member states' maternity leave provisions are to those under consideration in the European Commission's proposal. Maternity leave provisions vary widely across the EU in terms of maternity leave length and pay. Maternity leave length spans from 14 to 52 weeks, and pay varies from 55 per cent of average salary subject to an upper limit, to 100 per cent with no ceiling. Member states' employment regimes span countries where the state has been the driving force for comprehensive statutory provisions of workers' rights (such as Belgium, France, Germany, the Netherlands Luxembourg, Italy, Spain, and Greece), through to countries where the state has steered clear of regulating industrial relations (such as the UK and Ireland), to those where rules are made by corporatist agreements between employers and labour unions (such as Nordic states). Appendix 3 provides a full overview of all 27 EU member states' maternity leave provisions and financing sources.

The European Commission's impact assessment examined the cost and benefits of its proposal on four levels: societal, government budget, employers, and employees. The impact assessment is based on a study by the consultancy companies *Cowi* and *Ideas Consult*, who conducted a European Commission commissioned study of the costs and benefits of reconciliation measures (to read the report, see the appendices of European Commission, 2008a). The study categorised the EU's member states according to the main characteristics of their maternity leave schemes and their type of welfare scheme. Cowi/Idea Consult then selected eight member states (Belgium, Denmark, Estonia, Spain, France, Hungary, Poland, and the UK), considered to be representative of the 27 member states, to evaluate the costs and benefits of revising the existing maternity leave provisions. Table 6.2 lists the costs and benefits

mentioned in the Cowi/Idea Consult study as well as in the European Commission's impact assessment.

Table 6.2: Cost/benefit analysis

Level	Costs	Benefits
Society	<ul style="list-style-type: none"> <li>• Adjustment costs</li> <li>• Tax distortion</li> </ul>	<ul style="list-style-type: none"> <li>• Improved female economic independence</li> <li>• Increase in women's labour market participation</li> <li>• Enhanced gender equality in family patterns</li> <li>• Improved child health (likely)</li> <li>• Higher fertility rate (likely)</li> </ul>
Government budget	<ul style="list-style-type: none"> <li>• Increased compensation payment</li> <li>• Short-term lower tax income</li> </ul>	<ul style="list-style-type: none"> <li>• Long term higher tax income due to increased female labour market participation (likely)</li> </ul>
Employer	<ul style="list-style-type: none"> <li>• Increased employer compensation payment from leave schemes</li> <li>• Training costs for replacement staff</li> <li>• Temporary production loss unless the beneficiary is replaced by another person in her job</li> </ul>	<ul style="list-style-type: none"> <li>• Increased female labour market participation (likely)</li> </ul>
Female employees	<ul style="list-style-type: none"> <li>• Risk of discrimination against women as employers may be discouraged to higher young women (argument used by business).</li> </ul>	<ul style="list-style-type: none"> <li>• Increased financial independence of women through income security</li> <li>• Lower childcare costs for the family and/or for society as a whole.</li> <li>• Longer periods of breast feeding (likely)</li> <li>• More family quality time</li> <li>• Improved parent health (likely)</li> </ul>

*Source:* Adapted from European Commission's impact assessment, European Commission (2008a, p. 83)

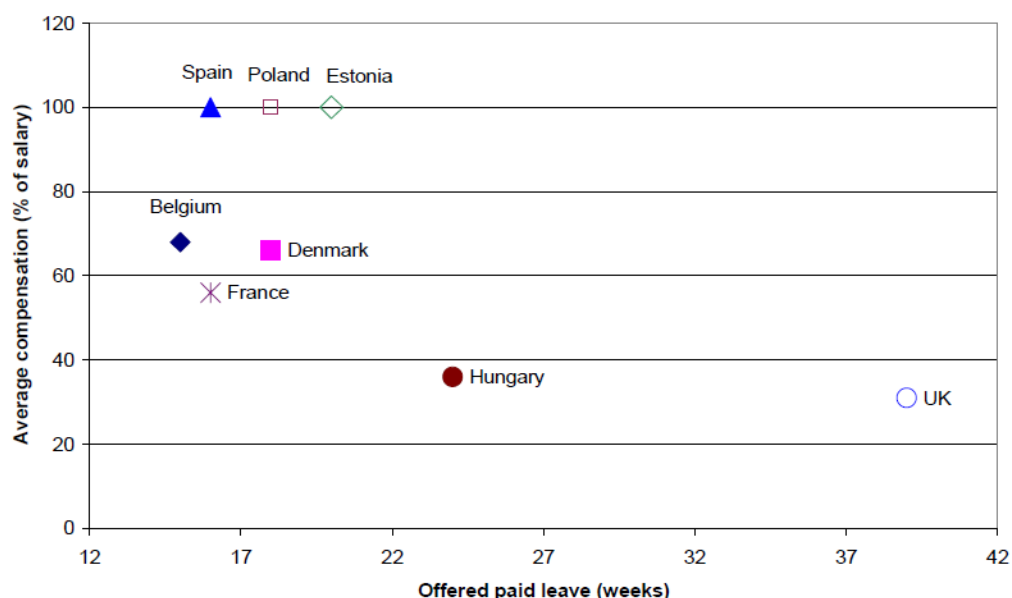


It should be noted that costs in a welfare-political cost-benefit analysis are more easily calculated than benefits, as it is difficult to assess the benefits in a quantitative way (European Commission, 2008a, p. 84). This may obscure other less tangible benefits, such as health effects, cost savings of childcare for the number of added weeks, and financial independence of women. Indeed, Dutch Green MEP Marije Cornelissen called attention to this during an EP debate by saying that ‘costs come with nice clean figures, while benefits do not’ (European Parliament, 2010c). Some of the costs and benefits listed in the table are subject to significant disagreement. For example, while centre-right governments and employers voice concern about the draft legislation’s possible impact on women’s employment opportunities, social NGOs argue that extending maternity leave length and pay does not curtail women’s chances in the labour market. Rather, social NGOs highlight that it is easier for businesses to find a replacement for six month than for a shorter period, and that those countries with the longest maternity leaves also have the highest female employment rates (such as Denmark and Sweden).

There are two main types of cost related to maternity leave: the allowance paid to women on maternity leave and the cost of replacing her. Employers face the costs of hiring and training a temporary replacement for the worker and temporary decrease in productivity (European Commission, 2008a, pp. 32-33). The extent to which the costs of increasing maternity leave length and pay depend on the degree to which this is financed by the state and/or employers. Most countries have a mixed contribution scheme in which maternity allowance is financed by contributions from employers and employees, as well as taxes and state subsidies. The socio-economic costs arising from the European Commission’s proposal are estimated to be low, comprising some adjustment costs and minor tax distortions needed to cover maternity leave pay. These additional costs are estimated to vary from 0.006% of GDP in Hungary to 0.05% of GDP in Belgium, and in absolute terms,

from €9196 million in France to €101 million in Hungary (European Commission, 2008a, p. 32). As shown in appendix 3, many member states already pay women 80% to 100% of their average earnings during maternity leave, and several member states provide for a maternity leave period of 18 weeks or longer. Figure 6.1 shows that most of the eight countries included in the Cowi/Idea Consult study have maternity leave provisions that are at the same level or above the 18 weeks proposed by the European Commission. In fact, only Belgium, France, and Spain would be required to extend the length of their maternity leave if the European Commission's proposal is adopted. Remuneration during maternity leave is generally fairly high, although both Hungary and the UK will have to raise their pay levels considerably (European Commission, 2008a, p. 85). No changes are required in Estonia and Poland, who fully comply with the provisions proposed by the European Commission.

Figure 6.1: Maternity leave provisions in eight EU member states



Source: European Commission (2008a, p. 85).

The benefits of strengthened EU maternity leave provisions are manifold, although they are difficult to quantify. Benefits include improved financial independence of women through income security, enhanced gender equality in family patterns<sup>122</sup>, higher fertility rate as women can afford to have children, and possibly result in longer periods of breast-feeding which will in turn increase protection against many illnesses and lower costs to public health services<sup>123</sup>. Furthermore, the European Commission's suggestion to strengthen women's right to ask for flexible working time upon returning from maternity leave could ease women's return to employment and possibly reduce the need to take other forms of leave, such as parental leave. These flexibility measures include the possibility to work-part, or full time but with a different distribution of hours. Flexible working patterns are also beneficial for companies as it is likely to result in less stress and absenteeism among employees, and stress-related absenteeism is often a major cost for companies.

As mentioned earlier, the costs arising from the European Commission's proposal will be financed either by employers and/or by the state (i.e. tax payers) depending on the national welfare system in place. This raises the question of whether the costs of strengthening existing maternity leave provisions are concentrated on a well-delineated constituency, or widely dispersed on tax-payers in general. The answer to this question depends on the country in question. In Germany, Malta, and the UK - where maternity leave pay is financed by the employer - the costs are concentrated on the employer. Contrary to this, in countries

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<sup>122</sup> The limited compensation paid to women on maternity leave in the UK puts single mothers in an extremely disadvantaged position. With only one income, it is very expensive for single mothers to keep afloat financially during their maternity leave period. On top of this are the exorbitant costs of having your child in full-time childcare in the UK. The expensive childcare facilities in the UK are one of the reasons why the UK has the highest proportion of women working part-time in the EU. Part-time working has proven to have a negative effect on women's salary, promotion, and career prospect (European Commission, 2008a, p.33).

<sup>123</sup> These include: allergies, asthma, cardiovascular disease, coeliac disease, sepsis, sudden infant death syndrome, diabetes, breast and ovarian cancer, gastrointestinal infection, necrotising enterocolitis, lower respiratory tract infection, acute otitis media (Unicef UK, 2012).

where maternity leave is primarily financed through taxes (such as Austria, Denmark, and Romania), the costs are widely dispersed. For analytical purposes, I have chosen to classify the proposal for a revised maternity leave directive as a case of entrepreneurial politics, in which the costs are concentrated on employers' associations, and the benefits widely distributed to all female employees. In such a scenario, the general expectation from the interest group literature is for opponents to have strong incentives to block the directive and for beneficiaries to have few incentives to press for its enactment. Policy will be blocked by the vested interests that benefit from status quo, unless a policy entrepreneur can galvanise support by associating the policy's benefit with the common good (Wilson, 1974).

It should be noted that labour unions can be regarded as representing both specific and diffuse interests depending on the specific interests being defended. Labour unions and employers' associations are often seen as a specific interests with concentrates stakes in policy issues due to their status as formal social partners with institutionalised corporatist access to the policy-making process in the EU and in many member states. Employers and employees represent socio-economic groups possessing a clear stake in the policy making process. However, the categorisation of labour unions as representing either a diffuse or a specific cause depends on the type of interest represented. When defending interests of sectoral labour unions – such as the ETF (European Transport Workers' Federation) and the European Federation of Metalworkers - labour unions represent a specific interest. When defending the rights of workers across all sectors - such as maternity leave provisions for all employees– labour unions constitute a diffuse interest.

Although social NGOs (such as the European Women's Lobby, EWL) and the ETUC are both regarded as defending diffuse interests on the maternity leave directive, their status within the EU decision-making process, resources, and substantive policy interests differ. Interest

organisations belonging to the same category do not necessarily share substantive policy interests or organisational characteristics. The differences between diffuse and specific interests are primarily meant to conceptualise whether organisational goals are linked to a specific or diffuse constituency. The distinction between diffuse and specific interests relates to how organisational goals are linked to constituencies. Specific interests pursue goals linked to well-delineated constituencies, whereas diffuse interests defend interests benefitting large segments of society. On the maternity leave directive, the ETUC aims to realise benefits that are not confined to their members only. Improved maternity leave provisions accrue for all female employees whether they have contributed to its realisation or not. 'Women' or even 'working women' do not comprise a specific interest akin to, for example, sectoral workers in the transport sector or producers of the automobile industry. Instead, interests defended by the ETUC on the maternity leave directive approximates to a public good in that it is non-excludable, albeit excluding men, and unrivalrous (one person's use does not deplete the availability of the good for others).

The categorisation of the ETUC as representing a diffuse interest on the maternity leave directive does not mean that the ETUC is necessarily worse off in influencing EU decision-making compared with European employers' associations. Both BusinessEurope and the ETUC have similar numbers of staff employed in their Brussels secretariats (approximately 50 members of staff), and together with the European Centre of Enterprises with Public Participation (CEEP) they hold a privileged position as EU social partners. Their role as social partners makes them significantly better positioned to influence EU policy making compared with interest groups (such as social NGOs) who do not enjoy institutionalised access to decision-makers in social and employment affairs. Under the social dialogue procedure, the social partners act as co-legislators who may negotiate agreements which, if an agreement can be found, translate into a collectively binding EU legislation. In contrast to

other policy areas, the European Commission holds a legal (treaty) obligation to consult the social partners twice within the policy area of employment and social affairs before adopting a proposal. On the maternity leave directive, the social partners decided not to deal with the dossier in the context of the social dialogue because their views were too far apart to find agreement.

## **6.2. The interest group arena**

The revision of the maternity leave directive attracted a large number of interest groups: national and European employers' associations and labour unions, European social NGOs, and national governments. The positions on the European Commission's proposal range from employers' associations (supported by the governments of the UK, Malta and Germany) supporting the status quo through to the ETUC wanting to improve the health and safety dimension of the directive to social NGOs advocating longer leave and mandatory full pay. Table 6.3 presents the position of employers' associations, labour unions and social NGOs on key provisions of the European Commission's proposal.

Table 6.3: Positions of interest groups

<i>Interest Group</i>	<i>Employers' associations</i>	<i>Labour Unions</i>	<i>Social NGOs</i>
<i>Legal basis</i>	Only article 137	Both articles 137 and 141	Both articles 137 and 141
<i>Target Group</i>	Status quo	Status quo + domestic workers	Status quo + all women regardless of their professional status (such as students, self-employed, assisting spouses and domestic workers)
<i>Maternity leave length</i>	Status quo (14 weeks)	18 weeks	24 weeks + eligibility criterion
<i>Pay</i>	Status quo (not below sick-leave)	100 per cent, but only relating to 18 weeks	100 per cent
<i>Dismissal prohibition</i>	Status quo (not during the maternity leave period)	Six months after returning to work	One year after returning to work
<i>Health and Safety</i>	No position	Preventive Approach	No position
<i>Paternity</i>	Exclude	Exclude	Two weeks on full pay

*Source:* BusinessEurope (2008); ETUC (2009); EWL (2009); Social Platform (2010).

As can be seen from table 6.3, employers' associations (such as BusinessEurope), SMEs (such as UEAPME and the British Federation of Small Businesses, FSB), and a number of governments (particularly those of Germany and the UK) are opposed to the European Commission's proposal to revise the existing 1992 directive because they find existing

rules sufficient to secure the health and safety of female employees. They contend that the proposal, if implemented, would risk damaging public finances and SMEs' budgets, as well as discouraging companies from employing young women. A representative from UEAPME explained that 'the reaction to this is that we [employers] don't want to employ young women anymore. We all know it's illegal, but this will in practise be the result, especially for SMEs'.<sup>124</sup> In a similar vein, a representative from the British FSB argued that:

It is easier for large businesses to cope [with employees going on maternity leave] as they have large human resource departments and larger number of staff. But, if you run a small business, it is very expensive to have your employees on maternity leave.<sup>125</sup>

Rather than longer maternity leave provisions, employers' associations called for a broader approach on work-life balance combining other forms of leave, affordable childcare facilities and flexible working arrangements. Employers warned that the proposed changes would be too costly during the economic downturn. All employers' associations agreed that maternity leave provisions and pay should be determined at the national and not the European level, due to member states complex mix of different leave arrangements. The position of employers' associations was supported by the British government, which is vehemently opposed to the European Commission's proposal mainly because the UK has a very long period of maternity leave, but at a very low level of pay. Hence, introducing 18 or 20 weeks of maternity leave on full pay would be very costly for British employers. BusinessEurope provided MEPs with figures, provided by their members, showing the costs imposed on employers in each EU member state if the European Commission's proposal is adopted.

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<sup>124</sup> Interview UEAPME, 8 April 2010

<sup>125</sup> Interview, UEAPME, 8 April 2010



Contrary to employers' associations, labour unions (such as the ETUC) and social NGOs (such as the EWL and the Social Platform) welcomed the European Commission's proposal for a revised maternity leave directive. Among social NGOs, mainly the EWL and the Social Platform were actively lobbying on the maternity leave directive in terms of meeting with MEPs and following the process closely. The EWL seeks to promote gender equality in all spheres of public and private life. It is one of the oldest and best established NGOs in Brussels, comprising more than 2500 organisations across 30 European countries. It was founded in 1990 'from a coalition of traditional and radical feminist groups' (Greenwood, 2011, p. 168), and has since 1995 been a member of the Social Platform (an alliance of 39 European NGOs active in the social sector). The ETUC is also a member of the EWL, enjoying the status as a European member association together with 20 other European and international networks<sup>126</sup>. The ETUC and social NGOs welcomed the European Commission's proposal, although they thought the proposal could be strengthened in a number of areas. The ETUC wanted to strengthen the proposal's health and safety dimension and women's rights concerning breast-feeding. The ETUC found that three problems, in particular regarding the proposal's preventive health and safety measures, needed to be addressed:

- Currently there is no obligation on the part of the employer to consider reproductive risks in the workplace in general, but only an obligation to assess the risks as soon as an employee informs her employer that she is pregnant. Pregnancy is usually notified to the employer between week seven and ten of a woman's pregnancy, but the greatest risk of foetal defects is during the first weeks of pregnancy. Thus, taking precautions after notification is often too late.

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<sup>126</sup> For a full list see EWL website at <http://www.womenlobby.org/spip.php?rubrique67&lang=en> (accessed 7 June 2012)

- The directive obliges employers to adopt preventive measures based on a risk assessment, but there is no obligation to establish a hierarchy of actions such as first attempting to eliminate the risk, and only in the last instance remove a pregnant employee from the workplace by sending her on leave.
- The directive does not provide for workers' representative bodies to be consulted on preventive measures (ETUC, 2009).

The absence of the above provisions in the directive was argued to lead to a situation where pregnant employees were regarded as individuals in an abnormal situation instead of treating the protection of pregnant workers as an issue of collective health and safety in the workplace. The ETUC called on the EP to take the above measures into account. Another key point for the ETUC is to widen maternity protection to any type of employment contract, including domestic work (ETUC, 2008). As can be seen from table 6.3, the ETUC supports maternity leave of at least 18 months that ensures payment of women's full salaries or equivalent to 100 per cent of the last monthly salary, to ensure that women are not suffering from any disadvantage because of pregnancy (ETUC, 2009). They argued that 'the lack of strong guarantees about payment during maternity leave can have the negative consequence that women with the lowest incomes voluntarily renounce taking the leave to maintain their salaries' (ETUC, 2008, pp. 8-9). Social NGOs shared the ETUC's position to provide full pay for the entire duration of the maternity leave in order not to penalise financially women for having children, and to address the wider issues of gender pay gap. However, social NGOs wanted to go even further, most notably by supporting:

- 24 weeks maternity leave to give women who have recently given birth the opportunity to breastfeed for a continuous period of six

month as recommended by the World Health Organisation (WHO);

- The removal of any eligibility criteria to give all women the same entitlement to paid maternity leave at least (as a minimum) during the six compulsory weeks of leave as proposed in the revised directive. Currently, only employees who have previously accumulated a number of days work (i.e. contributed to the social security systems) prior to their pregnancy are eligible to benefit from the provisions in directive. Eligibility conditions to benefit from maternity leave provisions differ between member states, which poses a difficulty for women moving country, on short term contracts, and women not directly active in the labour market (such as students);
- One year protection of dismissal following the end of pregnancy (EWL, 2008; Social Platform, 2009, 2010).

Unlike the ETUC, Social NGOs did not take a view on the health and safety at work and lobbied for 24 instead of the ETUC's 18 weeks of maternity leave. Social NGOs and the ETUC did not form any formal lobbying coalition. Instead, they lobbied separately but would make MEPs aware of that they shared views with each other on the issue of full pay. On the contrary, European employers' associations did not pool their resources, but lobbied individually.

Both Social NGOs and the European employers' associations appeared to opt for a stronger position in the beginning of the EP's policy process to put pressure on MEPs, while moderating their demands later in the process. The EWL, for instance, went from supporting a maternity leave period of 24 weeks to 20 weeks. While they genuinely would have liked to see 24 weeks in final legislation, they knew that it was unlikely to garner support in the EP. When it became apparent that the EP was not going to opt for 24 weeks, they chose to adapt their position paper and

show that their support for the FEMM committee report, which recommended 20 weeks maternity leave. Similarly, while all European employers' associations officially opposed the European Commission's proposal, representatives from BusinessEurope, EuroCommerce, and UEAPME said that they could live with the European Commission's proposal. Indeed, as one interviewee from EuroCommerce confirmed:

One thing is what we fight for in the first reading, another thing is what we do in the second reading. To be honest with you, we take an extreme position now [day dream interest] but will soften up later [compromise position].<sup>127</sup>

The above quote shows the importance of distinguishing between interest groups' day dreams (ideal outcome), night-mares (worst case scenario) and bottom-line position (compromise position) (Van Schendelen, 2010, p. 384). As discussed in Chapter 3, interest groups may have good reasons to exaggerate their demands to push things in a certain direction, especially during the EP's first reading when new amendments can be introduced to the Commission's proposal. As seen in chapter 1, new amendments cannot be introduced in the EP's second reading and, therefore, lobbying in the EP's second reading is about making sure that what was won in the first reading is not lost in the second reading. Similarly, the EU institutions might take a more extreme position in order to have something to give in during the inter-institutional negotiations. Generally, most interviewees thought that the European Commission's proposal steered a middle course between opposing views, and constituted a reasonable basis for negotiations. As an interviewee from the British FSB remarked:

In general, we are relatively happy with what comes out of the European Commission. Our concern is that when these issues get to the EP then what was very sensible from the European Commission is suddenly changed beyond all recognition. That

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<sup>127</sup> Interview, EuroCommerce, 7 April 2010

is a wider issue we are working on to make sure that when Parliament makes significant amendments that really alters the legislation that they must carry out impact assessments as well.<sup>128</sup>

Similar to the interviewee above, most 49 interviewees (except social NGOs and the rapporteur herself) thought that the European Commission's 'legislative pragmatism' on the proposal for a revised maternity leave directive went out the window once the proposal was put forward to the EP.

### **6.3 The EP policy process**

The European Commission's proposal for a revised maternity leave directive passed through a long and bumpy journey in the EP, including two parliamentary periods and three plenary vote postponements. The Commission's proposal for a revised maternity leave directive was put to the EP in early October 2008. There was significant dispute in the Conference of Committee Chairs<sup>129</sup> (collectively representing the EP's committee chairs) on whether to allocate the report to the FEMM committee or the Committee on Employment and Social Affairs (EMPL) as the responsible committee. It is the responsibility of the Conference of Committee Chairs to decide which committee should take the lead on a dossier, and which committee(s) should be given opinion-giving or associate status. It is not uncommon that 'different interpretations on bordering competences often cause clashes between FEMM (gender mainstreaming) and EMPL (social and employment policies)' (European

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<sup>128</sup> Interview, FSB, 12 July 2010

<sup>129</sup> The Conference of Committee Chairs is a supporting body to the EP's Bureau and the Conference of Presidents. It convenes once a month to review progress of work in committees and make recommendations to the Conference of Presidents (consisting of the EP President and the chairmen of the political groups). The Conference of Committee Chairs also settles demarcation disputes between committees if a Commission proposal falls within the remit of several committees (for more see Corbett et al 2008: 123-4).

Parliament, 2009g, p. 14) as to who should take the lead on a dossier. Most often these conflicts result in EMPL obtaining the lead and FEMM being assigned the role as opinion-giving committee. However, on the maternity leave directive, FEMM obtained the lead, while EMPL was given associate committee status following the enhanced Hughes procedure (see Chapter 1 for more information about this procedure). In FEMM, Portuguese socialist MEP Edite Estrela was appointed the role as rapporteur, and Romanian socialist MEP Rovana Plumb as rapporteur in EMPL. Many interviewees thought FEMM was assigned the role as lead committee for the wrong reasons:

In terms of content, it was evident that it should have gone to EMPL, but as FEMM didn't have any legislative files in the last parliamentary period, they pushed for being the lead committee [...] a committee like FEMM never gets a legislative directive. Suddenly just before the last term they got the maternity leave directive. It was for the wrong reasons that they got this dossier. FEMM members are not as experienced, and they are not the heavy-weights of the EP. [Because of this] the FEMM secretariat is less aware of a committee secretariat's strategic role in building compromises both within the house and with the Council.<sup>130</sup>

FEMM has only been responsible for four legislative dossiers in the current EP period as it usually deals with non-legislative files (such as own-initiative reports). FEMM is a so-called neutralised committee, which means that a full FEMM member can also be a full member of another parliamentary committee and a substitute member of a third. Most MEPs are only full members of one committee and serve as substitutes for up to two committees. Some committees are, however, given neutralised status which, due to their technical focus (such as the Petitions committee), or specialised remit (such as FEMM), would have difficulties in attracting members if MEPs were not allowed to be full members of another committee (Judge & Earnshaw, 2008, pp. 171-172).

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<sup>130</sup> Interview, EMPL policy advisor, 22 October 2010

### *6.3.1 The committee deliberations*

On 23 April 2009, the FEMM committee voted for minimum maternity leave to be extended from 14 to 20 weeks, and be fully paid. The final committee report introduced a number of controversial changes to the European Commission's proposal, most notably:

- Extending the length of the maternity leave to 20 weeks, six of which must be taken immediately after childbirth.
- Paying workers on maternity leave their full salary during the compulsory period of six weeks, and 85 per cent during the remaining period regardless of the number of days worked prior to confinement (commonly referred to as the eligibility criterion).
- Introducing a new clause on compulsory paternity leave of two weeks non-transferable fully paid paternity (so far, there is no EU legislation on paternity leave).
- Allowing women with children time off for breastfeeding: mothers who are breastfeeding their child, but have returned to work, shall be entitled to two daily breaks to breastfeed, each of which shall be of 30 minutes, without losing any privileges connected to her employment (European Parliament, 2009d).

The report, furthermore, included provisions on night work, rights for parents adopting children, rights for mothers with disabilities, health and safety provisions, and the right of women to return to their job or to an equivalent post with same pay, duties and professional category as before. Throughout the FEMM policy process it could be observed that the rapporteur changed her position on key aspects of the European Commission's proposal. Committee scrutiny of a dossier often starts off with the rapporteur writing a short working document of five to six pages stating his/her initial position of the dossier before writing the draft

report. In Edite Estrela's working document of 22 January 2009, she stated that she endorsed the European Commission's proposal to recommend (not oblige) employers to pay women on maternity leave their full salary. The duration of maternity leave was unspecified, and the inclusion of domestic workers in the target group was not mentioned. Table 6.4 shows the policy changes to the European Commission's proposal throughout the committee scrutiny in FEMM in the sixth parliamentary term.



Table 6.4: Key FEMM changes to the European Commission's proposal in the sixth parliamentary term

<i>Key provisions</i>	<i>Working document (Jan 2009)</i>	<i>Draft report (Feb 2009)</i>	<i>Report (April 2009)</i>
<i>Target Group</i>	Status quo	Status quo + domestic workers	Status quo + domestic and self-employed workers
<i>Maternity leave length</i>	Unspecified	20 weeks, 8 of which are compulsory after childbirth + eligibility criterion	20 weeks, 6 of which are compulsory after childbirth + eligibility criterion
<i>Pay</i>	Endorses the European Commission's proposal	Payment <i>should</i> be full salary with no less than 80% of average monthly salary.	Payment <i>must</i> be 100% during the 6 compulsory weeks after childbirth, and 85% during the remaining period.
<i>Dismissal prohibition</i>	From the beginning of pregnancy to 1 year after maternity leave	From the beginning of pregnancy to 1 year after maternity leave	From the beginning of pregnancy to 6 months after maternity leave
<i>Health and safety</i>	Unspecified	Preventive approach	Preventive approach
<i>Paternity</i>	Mentioned but unspecified	2 weeks compulsory fully paid leave	2 weeks compulsory fully paid leave for fathers and life-partners
<i>Breast-feeding</i>	Mentioned but unspecified	Entitled to one hour per day	Entitled to one hour per day

Source: European Parliament (2009b, 2009d, 2009f).

As can be seen from table 6.4, the draft report following the working document introduced very specific amendments on pay, maternity length, health and safety at work, and target group that had not previously been included. While the rapporteur's mind-change on key provisions might be due to a greater familiarity with the issue, many of

the amendments were identical to those put forward by the EWL and ETUC. Both the ETUC and the EWL had close contact with the rapporteur in the period in between the working document and the first draft report. As a representative from EWL expressed, ‘we had many meetings with Estrela and her assistant, and they took many of our concerns on-board’.<sup>131</sup> This suggests that both the EWL and the ETUC managed to influence the rapporteur’s position on key aspects of the proposal, a point returned to later in this chapter. It also shows that the rapporteur did not hold a strong view on the dossier from the outset.

### *6.3.2 The bumpy road to the EP’s plenary vote*

The FEMM report provoked lively debate in the EP and the Council as both MEPs and member states views differ widely. This has resulted in the EP’s plenary vote on the report being postponed three times. The first time was when the first FEMM report (of 23 April 2009) was put to a plenary vote on 6 May 2009. Instead of voting on the report, a majority of MEPs decided to refer it back to the committee for renewed scrutiny. The amendment which suggested that the report should be referred back to the committee was put forward verbally by Astrid Lulling on behalf of her group, the EPP. According to Astrid Lulling, the EPP did not block the report, but simply saved the EPP from looking too ridiculous as she thought Estrela’s report was going for a ‘first class funeral’.<sup>132</sup> According to all 49 interviewees, the decision to refer the report back to the FEMM committee was compounded by three interrelated considerations:

- Centre-right MEPs did not want to touch upon the sensitive issue of maternity leave provisions ahead of EP elections in June 2009 as, one interviewee said: ‘the improvement of women’s maternity

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<sup>131</sup> Interview, EWL, 6 April 2010

<sup>132</sup> Meeting observation between European employers’ association and MEP, 1 June 2010

leave rights is an ugly thing to vote against, especially just before an election’.<sup>133</sup>

- MEPs were under intense lobbying pressure from employers’ associations and several member states to reject the FEMM report.
- The centre-right was not sure to have a simple majority at the plenary against the FEMM report, and therefore delaying the vote was seen as the only way to avoid the adoption of the report.

One EMPL committee administrator explained how MEPs and policy advisors were, ‘overwhelmed with lobbying from employers and members states prior to the plenary vote [...] I think the lobbying letters from BusinessEurope had an impact [on the EP’s decision to refer the report back to FEMM]’.<sup>134</sup> In the days preceding the plenary vote several European employers’ associations met with MEPs and sent lobbying letters to MEPs urging them to either reject or not vote on the FEMM report. The quote below shows an extract of a lobbying letter sent to MEPs by EuroCommerce on 4 May 2009 – two days before the scheduled plenary vote:

EuroCommerce is concerned about the FEMM committee’s report on the maternity leave directive [...] We still believe that the minimum standards which are laid down in Directive 92/85/ECC are sufficient [...] From EuroCommerce’s point of view, the FEMM committee’s report is single-sided and counterproductive. Therefore, EuroCommerce would like to encourage you not to vote for the FEMM report (EuroCommerce, 2009).

All 49 interviewees thought that the FEMM report would have been voted upon at plenary was it not for the intense lobbying pressure from employers’ associations and certain member states (particularly the UK and Germany), and the 2009 EP elections looming ahead. The referral

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<sup>133</sup> Interview, BusinessEurope, 9 November 2010

<sup>134</sup> Interview, EMPL committee administrator, 22 October 2010

back of the report to FEMM did not, however, change the main content of the report. In September 2010, FEMM restarted its scrutiny of the European Commission's proposal, with the same rapporteur in charge. As can be seen from table 6.5, the committee agreed on an almost identical report to the one adopted in the previous parliamentary term. There were minor differences regarding maternity leave remuneration, paternity leave, and a reference to co-maternity leave. Regarding payment, a so-called passerelle clause was inserted in the FEMM report (in the seventh parliamentary term) stating that when family-related leave (such as parental leave) is available at national level, the last four weeks of the twenty may qualify as maternity leave. Paternity leave was changed from being compulsory to an entitlement fathers can, if they wish, avail themselves of. Lastly, a reference to co-maternity leave (the right of same-sex partners of pregnant women to take leave) was deleted in the FEMM report.

Table 6.5: Key FEMM changes to the European Commission's proposal in the seventh parliamentary term

<i>Key provisions</i>	<i>Draft report (Nov 2009)</i>	<i>Report (March 2010)</i>	<i>Plenary outcome (Oct 2010)</i>
<i>Target group</i>	Status quo + domestic a self-employed workers	Status quo + domestic a self-employed workers	Status quo + domestic workers
<i>Maternity leave length</i>	Twenty weeks, six of which are compulsory after childbirth + eligibility criterion	Twenty weeks, six of which are compulsory after childbirth + eligibility criterion	Twenty weeks, 6 of which are compulsory after childbirth + eligibility criterion
<i>Pay</i>	Payment <i>must</i> be 100 per cent during the six compulsory weeks after childbirth, and 85 per cent during the remaining period	Payment <i>shall</i> be 100per cent during twenty weeks.  When family-related leave is available at national level, the last four weeks of the twenty may qualify as maternity leave	Payment <i>shall</i> be 100per cent during twenty weeks  When family-related leave is available at national level, the last four weeks of the twenty may qualify as maternity leave
<i>Dismissal prohibition</i>	From the beginning of pregnancy to one year after maternity leave	From the beginning of pregnancy to six months after maternity leave	From the beginning of pregnancy to six months after maternity leave
<i>Health and safety</i>	Preventive approach	Preventive approach	Preventive approach
<i>Paternity</i>	Two weeks (non-compulsory) fully paid leave for both fathers and life-partners	Two weeks (non-compulsory) fully paid leave for fathers	Two weeks paid leave (non-compulsory)
<i>Breastfeeding</i>	Entitled to two hours per day	Entitled to two hours per day	Entitled to two hours per day

Source: European Parliament (2009e, 2010e, 2010i)

Following FEMM's minor changes to its previous committee report, a new plenary vote was scheduled to take place in March 2010. However, this was blocked again – this time by a British ECR MEP, Marina Yannakoudakis. Marina Yannakoudakis suggested to have an impact assessment conducted, evaluating the costs and benefits of the FEMM amendments. A request for an impact assessment examining the costs and benefits of EP amendments is allowed under the EU's inter-institutional agreement on better law-making. The same week as the ECR put forward a request for an impact assessment, it could be read on the FSB's (a British SME) webpage, 'following lobbying by the FSB, European Parliament plans to grant pregnant women twenty weeks of maternity leave on full pay have been shelved pending on a full impact assessment' (FSB, 2010a)

When interviewing MEP Marina Yannakoudakis about how she got the idea to propose an impact assessment, she replied, 'someone suggested it to me. I can't remember who. I have spoken to so many [interest] groups'.<sup>135</sup> A representative from the FSB explained that 'I don't know if we had a direct impact on Mrs Yannakoudakis decision to propose an impact assessment, but following a meeting with her, where we raised the idea of an impact assessment, she put forward the proposal to have an impact assessment conducted'.<sup>136</sup> The impetus for an impact assessment was compounded by lobbying pressure from employers' associations and a general British interest in avoiding a vote on the dossier prior to the British general election on 6 May 2010. As one interviewee explained, both British Conservative and Labour MEPs 'were quite happy to hold this [the plenary vote] off a bit because of the upcoming British general election [...] The British government was lobbying [MEPs] very hard before the election'.<sup>137</sup>

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<sup>135</sup> Interview, MEP, 7 June 2010

<sup>136</sup> Interview, FSB, 12 July 2010

<sup>137</sup> Interview, EP policy advisor, 29 October

The EP's impact assessment was outsourced to the Danish consultancy company Rambøll, which was in charge of assessing the social and economic costs and benefits of the amendments proposed by the FEMM and EMPL committees. A new plenary vote was scheduled for the maternity leave directive in July 2010, which was to follow immediately after the publication of the impact assessment. Unfortunately, the impact assessment was considered poor, and Rambøll was given extra time to improve it. Much to the disappointment of the ETUC, the plenary vote was postponed once again.

On 7 July 2010, the ETUC's Confederal Secretary sent a letter to the political leaders of the EPP, S&D, ALDE, Greens/EFA, and GUE/NGL as well as FEMM and EMPL members in which it expressed serious concern about the continued stalling of the EP's process of revising the maternity leave directive. The letter urged the heads of the political groups to do everything possible to promote a compromise in the EP along the lines of the ETUC's position on the directive, and to promote the vote in plenary to take place at the earliest possible moment. The ETUC was not convinced that the current process, led by FEMM, would lead to a final text that could be supported by a majority in the EP and lead to a constructive negotiating process with the Council. This was – according to the ETUC – argued to be because FEMM sought to include issues that went beyond the scope of the current directive, such as paternity leave. Particularly, the ETUC feared that the revision of the directive would risk being stalled for several years because of FEMM's attempt to address too many issues within the framework of one directive. Policy advisors from the ALDE and S&D groups thought:

The impetus for the letter came from within the Parliament, someone, maybe from our group, asked the ETUC to send the letter. It was not a very nifty move. I'm absolutely sure that it came from the inside.<sup>138</sup>

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<sup>138</sup> Interview, S&D policy advisor, 13 January 2010

The impact assessment was finally completed in September 2010, but according to all 17 interviewees working inside the EP, ‘the report didn’t change anything as MEPs had already made up their minds’.<sup>139</sup> Some MEPs opposed to the FEMM report were keen on avoiding a plenary vote of the FEMM report all together. In a meeting I observed between an MEP opposed to the FEMM report and an employer’s associations, the MEP discussed possible creative ways of avoiding a plenary vote of the FEMM report. As the MEP said during this meeting:

We must try to be creative...maybe we can get the European Commission to withdraw its proposal... Talk to Viviane Reading [vice-president and European Commissioner responsible for justice, fundamental rights and citizenship], maybe she could make the European Commission withdraw its proposal. I am thinking of solutions. I am thinking of ways out of this. This must not come to plenary. MEPs might vote for it as they would have a fear that they would be blamed by their country. They will be too concerned. We must avoid getting it to plenary. Politicians are populists. We will not get an agreement with the Council on this report.<sup>140</sup>

The ETUC’s pressure to speed up the process in the EP (or at least not further delay it), and employers’ associations attempts to delay the decision-making resonates with Van Schendelen’s observation that ‘those in a losing mood want to delay; those in a winning mood want to speed up’ (2010, p.159).

### *6.3.3 The EP’s first reading outcome*

On 20 October 2010, FEMM’s report on the maternity leave directive was put forward to the plenary. Both inside and outside the EP, the possible outcome of the vote was impossible to predict prior to the vote. Usually, alliances between political groups are built before the vote and the

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<sup>139</sup> Interview, ALDE policy advisor, 29 October 2010

<sup>140</sup> Meeting observation between employers’ association and MEP, 1 June 2010



outcome known before plenary votes, but that was not the case of the maternity leave directive. At interview an EP policy advisor explained:

Usually, we bet on the result and the winner gets a bottle of Champagne. We do this with key files, where we have undertaken a lot of lobbying. On the working time directive in road transport [see Chapter 6], we knew the evening before that we would win it, but on the maternity leave directive, we had no idea.<sup>141</sup>

At plenary, MEPs voted to up the minimum duration of maternity leave to twenty weeks and require member states to ensure that women receive their full salary when on leave. The report was carried with 390 votes in favour, 192 against, and 59 abstentions. As can be seen from table 6.5, the EP adopted the following amendments:

- Extending the scope of the directive to domestic workers
- Entitling fathers to two weeks of non-transferable paid paternity leave
- Prohibiting dismissal of female employees from the beginning of pregnancy to 6 months after maternity leave
- Entitling women who are breastfeeding to two hours breaks per day designated for breastfeeding

The EP's legislative resolution (the policy outcome of the plenary) also included new provisions, most notably a more detailed account of the 'passerelle' clause, stating that the last four weeks of the 20 may qualify as maternity leave and must be paid at least at 75 per cent of the salary. The passerelle clause was mainly seen as a solution for Germany (and as a way of getting German MEPs on-board). Table 6.6 shows the outcome of the final vote on 20 October 2010 at the plenary. Many MEPs voted

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<sup>141</sup> Interview, Greens/ETA policy advisor, 17 November 2010

according to national lines, which most EP interviewees perceived as a result of lobbying pressure from national governments.

Table 6.6: Vote on the legislative resolution

Political Group	For	Against	Abstention	Cohesion Scores
ALDE	39	30	8	25.97%
ECR	9	35	3	61.70%
EFD	7	12	6	22%
EPP	142	67	27	40.25%
Greens/EFA	45	3	4	79.81%
GUE/NGL	29	0	1	95%
S&D	147	15	6	81.25%

Source: Adapted from (VoteWatch, 2010a).

Only 40.25 per cent of the EPP's members toed the group line on the final vote. Likewise, ALDE was completely divided with only 25.97 per cent of its members voting according to the official group line. ALDE MEPs from Germany, Sweden and UK diverted from the group line because of pressure from their governments.<sup>142</sup> The following national delegations diverted from the EPP group line: Austria, Belgium, Bulgaria, France, Germany, the Netherlands, Romania, Spain, and Sweden. ALDE's and the EPP's official group lines were to support the final EP report as amended if the 'passerelle clause' was adopted. However, the large number of ALDE and EPP MEPs voting against the final EP report suggests that the intense lobbying from the governments of Germany, UK and Sweden had an impact on MEPs' decision to divert from their EP group line. S&D had one of the highest cohesion scores, although this does not imply that all of its members fervently supported the outcome. According to S&D interviewees, many members grudgingly supported the

<sup>142</sup> Interview, ALDE policy advisor, 29 October 2010

rapporteur in order to display group cohesion. One British Labour MEP interviewed prior to the plenary vote felt that his delegation was left between a rock and a hard place:

It's extremely difficult for us. I think Edite Estrela's position is too extreme. It will not win support in Council. But we as a group can't be seen to be adopting a less progressive position than her. If she decides to be extreme, then the group will feel obliged to be extreme and follow her. Maybe I'm just becoming old; maybe I was more rebellious when I was younger. But I'm more realistic, and I'm more responsible as a legislator ... We can't play these games. We can't be playing to the gallery, which is what Edite is doing. So I suspect what I will be recommending to my bureau this week and to the group next week is that, okay, we follow Edite's line, and we go down in flames. We will be defeated. I will be uncomfortable with that, but it's the only way forward in my view, politically.<sup>143</sup>

S&D MEPs found themselves in a dilemma: if they voted with Estrela they would risk being defeated in plenary and by the Council, but if they diverted from the group line, they would break the norm of group discipline. While genuine disagreement existed within the S&D group, many S&D MEPs chose to toe their group line rather than following their own personal conviction. MEPs' default behaviour in plenary is usually to follow the voting recommendations of their group (except in the case of fringe groups) and to adopt the committee report.

The EP's first reading position was met with scepticism both inside and outside the EU institutions. Outside the EU institutions, in the dense web of interest groups, employers' associations and SMEs regretted that the EP had turned a deaf ear to their calls of not imposing extra costs on small employers in the present economic climate, and considered MEPs to be out of touch with the business reality. Employers also strongly opposed the inclusion of paternity leave within the scope of the maternity leave directive (UEAPME, 2010c). Social NGOs saw the outcome as 'an

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<sup>143</sup> Interview, S&D MEP, 31 August 2010

incredibly important victory for parents, both mothers and fathers' (EurActiv, 24 February 2010), although they did not favour the adoption of the passerelle clause. Similarly, the ETUC welcomed stronger protection for pregnant workers and working mothers, although they did not support the inclusion of paternity leave within the scope of the maternity leave directive. In the Council, the EP's first reading position was met with scepticism because many member states were concerned about the financial consequences of introducing twenty weeks of maternity leave on full pay. Given the diversity of maternity protection and social security systems across member states, as well as the financial implications, the majority of Council delegations considered 20 weeks on full pay unacceptable. The majority of member states considered the EP's amendments to be too detailed to be included in the directive.

#### **6.4 The role and influence of lobbying**

The EP's first reading position on the maternity leave directive did not reflect a compromise between opposing views. Although the passerelle clause provided some flexibility for German employers' associations, employers' associations were left disappointed. Three factors in particular account for employers' associations' limited ability to influence the EP's first reading position: they were faced with an 'unfriendly' lobbying arena; they adopted a reactive (as opposed to a proactive) lobbying strategy; and they took up a rather uncompromising position as they did not want to see any revision of the current 1992 directive.

Although employers' associations exerted limited influence on the final outcome, they managed to influence the EP's processing of the directive and the issues discussed. Firstly, employers' associations appear to have had an impact on the numerous postponements of the plenary vote on the FEMM report. Secondly, lobbying restricted the number of issues discussed within Parliament. The question of how much women should be paid during maternity leave emerged as one of the most

controversial issues, not just in the EP, but also among governments and employers. This meant that other important issues got ‘suffocated’, such as provisions relating to night work and breast-feeding. For instance, the FEMM report and final plenary outcome included an amendment that would give women (returning to work after finished maternity leave) the right to request two hours break per day in order to breastfeed their babies. While this provision could be costly for employers, it did not attract attention from employers’ associations or member states. A FEMM policy advisor remarked at interview:

The discussion over full pay ‘switched off many fuses’. When something big happens, you cannot think about anything else. The big issues were full pay for twenty weeks. Before member states and employers really started lobbying, the focus was much broader and also included issues such as paternity leave and night work. Member states started to panic, and the debate in an outside Parliament started to evolve around money [i.e. the costs of improving existing EU maternity leave provisions].<sup>144</sup>

Lobbying played a key role in the issues being discussed, but, as one interviewee explained, ‘many MEPs also had an emotional attachment to the dossier and MEPs would often build their arguments around personal experiences’.<sup>145</sup> The emotional attachment to the dossier could clearly be observed during committee meetings. During the FEMM vote on the report, MEPs from the Greens wore t-shirts saying ‘I like babies’. When voting upon the directive in plenary, a FEMM member brought her newborn baby with her. Unlike very technical dossiers (such as the vans regulation), the maternity leave directive was highly politicised with a large number of MEPs being active in the EP debates.

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<sup>144</sup> Interview, FEMM policy advisor, 9 November 2010

<sup>145</sup> Interview, ALDE policy advisor, 29 November 2010

#### *6.4.1 Contextual factors: FEMM is an ideological committee*

Both inside and outside the EP, FEMM has acquired a reputation for being an ideological committee, whose views are often not representative of the EP as a whole. This reputation is earned mainly due to its composition (with only five male members out of 34 full FEMM members), and limited experience in dealing with legislative files. FEMM mainly deals with proposals subject to consultation. Interviewees generally portrayed FEMM as a committee that did not know the rules of the co-decision game. As highlighted in Chapter 3 (the vans regulation), the informal rules of the co-decision game entails anticipatory compliance' on the part of the rapporteur by taking up a position constituting an appropriate starting point for negotiating with the Council. What is understood by 'appropriate' is, of course, subject to debate, but generally it involves steering a middle path and not taking up a position which is too extreme or stubborn. Most interviewees attributed the 'bumpy' EP policy process to inexperience on the part of FEMM in dealing with legislative files. The quote below provides an example of how most of the 49 interviewees described FEMM:

They [FEMM MEPs] don't realise that they are able to achieve things. They put too much into the pot, and therefore they are not taken seriously. FEMM members always have a secluded party among themselves, but it doesn't work legislatively. They are too focused on women, and they have great difficulties seeing things from a different perspective.<sup>146</sup>

Many interviewees expressed either disinterest or direct opposition to the committee. One policy advisor working on the EMPL committee thought it would be a demotion to be moved to the FEMM secretariat:

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<sup>146</sup> Interview, MEP, June 2000

Everybody knows that if you a moved to FEMM you are ‘dead meat’ in the sense that nobody wants to go there. You get demoted if you are moved to FEMM. FEMM is one-sighted. The MEPs are there because they ‘believe’ [...] that has a huge impact on who they listen to. It is the role of the FEMM committee to be feministic; it has become a real feminist committee.<sup>147</sup>

Often interviewees would use condescending language when talking about FEMM. One Conservative MEP called FEMM MEPs ‘a bunch of feminists burning their bras’, and during a plenary debate a British MEP even went so far as to disparagingly portraying some FEMM members as ‘lesbian man-haters’.<sup>148</sup> Their descriptions show that FEMM is perceived as a committee whose preferences differ substantially from those of the overall parliament. Even interest groups supporting many of the provisions put forward by FEMM found FEMM’s position too optimistic, and unrealistic:

FEMM is a playpen for very unserious discussions. They [FEMM MEPs] don’t think about getting this through the EP as a whole and to gather a majority on this issue. Estrela [the rapporteur] is just interested in importing the Portuguese model to the EU. FEMM has all the good intentions, but they don’t take this directive seriously.<sup>149</sup>

Similarly, a representative from a social NGO thought that they had been particularly influential in leaving their fingerprints on the FEMM report because the rapporteur supported their views from the outset:

We [social NGOs] have been more successful in getting our views through in the EP than in the European Commission. The EP, especially Estrela, is living in an ideal world being more progressive, whereas the European Commission has been more pragmatic and taking into account member states’ views.<sup>150</sup>

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<sup>147</sup> EP policy advisor, June 2010

<sup>148</sup> Interview, FEMM MEP, 31 May 2010

<sup>149</sup> Interview, ETUC, 20 July 2010

<sup>150</sup> Interview, COFACE, member of the Social Platform, April 2010

Because the majority of FEMM MEPs are closer to the views of social NGOs than those of employers, FEMM provides a particularly fruitful lobbying arena for women's rights organisations. Indeed, several interviewees from the European employers' associations (such as BusinessEurope, UEAPME, and EuroCommerce) expressed a loss of hope in influencing the committee report when they saw that the dossier had gone to FEMM. In the words of a representative from UEAPME:

When we saw the names of the rapporteurs in both the FEMM and the EMPL committees, we knew it was a lost call: two socialists from Portugal. It made it very difficult for employers to put through our arguments. MEPs in the EMPL committee are put in the world to defend employees – and MEPs in the FEMM committee to protect female workers.<sup>151</sup>

The general perception of FEMM as a rather zealous committee has prompted employers' associations to shift their lobbying focus away from the committee to the plenary. FEMM's position on the maternity leave directive shows that some EP committees are less willing to engage in a process of anticipatory compliance. Due to FEMM's uncompromising report in the sixth parliamentary term, the Council had decided to put its scrutiny of the proposal on hold until the EP had adopted a formal first reading position. This meant that the EP, European Commission, and the Council did not engage in an informal trialogue meeting prior to the EP's first reading plenary vote in October 2010. The limited contact between the EP and the Council before the EP's formal first reading position illustrates the controversy surrounding the dossier.

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<sup>151</sup> Interview UEAPME, 8 April 2010



#### *6.4.2 Proactive versus reactive lobbying strategies*

All the ten interviewed representatives from employers' associations regard the majority of FEMM MEPs as being rather impervious to the views of employers' associations. As one interviewee from UEAPME noted:

Employers are always seen as the bad guys in both EMPL and FEMM. For FEMM and EMPL MEPS it is so obvious that they have to defend employees. Whatever employers propose, we are per definition seen as the bad guys. It is really difficult for us to influence FEMM MEPs, and that is why we are much more powerful in the plenary session.<sup>152</sup>

Employers' associations find it very difficult to influence the reports in FEMM and EMPL because they feel that MEPs from these committees tend to take up views closer to the EWL and the ETUC respectively. As observed in Chapter 5, employers' associations' perception of being an unwelcome guest in FEMM and EMPL has led them to divert their attention away from these committees to the plenary. Unlike the road transport working time directive (Chapter 5), employers' associations were internally cohesive. But similar to the road transport working time directive, employers focused most of their lobbying on the plenary stage rather than the committee stage. As one social NGO representative noted:

We never saw the business community being active at the committee stage, but before the plenary stage, they were active. I think they [employers' associations] don't view Parliament as a decisive decision-maker. They feel that they can always act at a later stage. They feel that they have enough strong arguments to kill it in the Council.<sup>153</sup>

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<sup>152</sup> Interview UEAPME, 13 December 2010

<sup>153</sup> Interview, Social Platform, 20 April 2010

A representative from UEAPME explained why they had taken up a reactive lobbying strategy:

Parliament is always the most difficult for us in the field of social affairs because we are always the bad guys. The MEPs have this feeling that they have the mandate to defend citizens, meaning to defend workers and women. MEPs sympathetic to workers' rights are all concentrated in EMPL, and FEMM is the EWL's [European Women's Lobby] committee. Therefore we took up a more reactive, rather than proactive, lobbying strategy. We knew that we were not heard by members of the EMPL and the FEMM committees. This limits the number of MEPs we can reach and create an additional handicap.<sup>154</sup>

Employers' associations' limited lobbying of the FEMM and EMPL committees compared to the EP's plenary stage and the Council may be regarded as a rational strategy given the (perceived) constraints they are operating under in FEMM and EMPL. The ten interviewed employers' associations did not find lobbying FEMM and EMPL resource-efficient because they thought they would stand a better chance of influencing the dossier at the EP's plenary and in the Council. As argued by Culpepper (2011, p. 190), business groups often have little ability to be successful on highly salient issues. When faced with battles that business groups have few chances of winning, they may be better off conserving their resources to venues, where attention and lobbying may be less intense. The reactive lobbying strategy of employers' associations on the maternity leave directive can be viewed as a rationale strategy of conserving ones resources to venues, where they stand a greater chance of exerting influence, such as the EP's plenary and the Council. However, one FEMM policy advisor thought that employers' reactive lobbying strategy towards the EP on employment and social affairs had led to a self-fulfilling prophecy, in which FEMM MEPs took up even more extreme positions than might otherwise have been the case if they had been subject to more

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<sup>154</sup> Interview, UEAPME, 13 December 2010

symmetrical lobbying from employers' associations, labour unions, and social NGOs.<sup>155</sup> Contrary to employers, the ETUC and social NGOs lobbied MEPs as soon as the rapporteur was appointed, whereas employers' associations were hardly active at the committee stage. However, once the final FEMM report was adopted, lobbying from the EWL and EWL ebbed, and lobbying from employers' associations intensified. The ETUC and social NGOs engaged in proactive lobbying by securing that their demands were included in the FEMM report. Once that goal was secured, lobbying from the ETUC and social NGOs dampened.

Lobbying in the EP on the revision of the maternity leave directive was characterised by two main features: intense lobbying from member states and national employers' associations, and high salience of the issue in the national and EU media. Firstly, the general feeling among interviewees was that MEPs are often influenced by their national party position on social and employment matters, particularly when their party is in government. All the interviewed representatives from European umbrella organisations, therefore, found it crucial to 'mobilise [their] national associations and ask them to lobby their national MEPs, [and to] adopt both a bottom up and a top-down approach'.<sup>156</sup> Secondly, the Brussels media and national media (particularly in the UK) focused on the costs of the European Commission's proposal. One EP policy advisor claimed that 'the biggest lobbying came from the media'.<sup>157</sup> There was general agreement among interviewees that employers' associations appeared better at using the media than ETUC and social NGOs. Perhaps this was because their arguments of 'costing billions to business', 'not employing women', and 'making SME's bankrupt' were more popular in the present context of the financial crisis than the arguments advanced by their lobbying opponents.

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<sup>155</sup> Interview, FEMM policy advisor, 9 November 2010

<sup>156</sup> Interview, UEAPME, 8 April 2010

<sup>157</sup> Interview, ALDE policy advisor, 29 October 2010

The UK media reported a figure from a British government impact assessment showing that if the FEMM report was adopted, it would cost UK businesses £2.2 billion per annum in additional costs (see, for instance, BBC news, 2010; Traynor, 2000). The purported cost of £2.2 billion to British employers was repeated constantly in debates in the EP. Much to the surprise of many interviewees, employers' 'cost campaign' did not appear to have a significant impact on the voting outcome in plenary, although the passerelle clause provided some flexibility for employers. Despite the numerous delays of the plenary vote and immense lobbying pressure from employers' associations and national governments (particularly the UK and Germany), employers' associations did not manage to swing the vote in favour of their position. As one ALDE policy advisor commented:

The employers' organisations were successful up until the actual plenary vote! I wonder though who spoke to the Italian, Hungarian, and Polish delegations within the EPP, as they were the ones that turned the vote in favour of the socialists.<sup>158</sup>

While the EP's policy outcome did not favour the views of employers' associations, the stalling of the European Commission in the Council certainly did as employers' associations' ideal outcome was a 'non-decision' that would retain the provisions in the current 1992 directive.

#### *6.4.3 The type of change sought: technical or directional*

The empirical findings of the maternity leave directive show that the type of change sought by interest groups plays a role in their potential to influence the EP's policy outcome. The 'type of change' refers to the degree to which an interest group seeks to change the core of a legislative proposal and key MEPs' preferences. Two factors proved important for social NGOs and the ETUC's ability to leave their fingerprints on the EP

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<sup>158</sup> Interview, ALDE policy advisor, 29 October 2010

policy outcome: the rapporteur pursued a strong interest of her own that was favourable to social NGOs, and MEPs were receptive to the ETUC's demands because they were uncontroversial and purely technical.

The rapporteur's assistant told me that 'Estrela's way of thinking is closer to the ETUC and EWL than the employers' organisations'<sup>159</sup>, and therefore she was more willing to accept the arguments of social NGOs than those of employers' associations. As employers' associations wanted to sustain the status quo (i.e. did not want to revise the existing 1992 directive), their position ran counter to the political interest of most FEMM and EMPL MEPs. One might question whether or not social NGOs exerted any influence over the rapporteur given that they had similar policy preferences. From the outset, the rapporteur wanted to strengthen the European Commission's proposal in terms of maternity leave length and pay. Furthermore, she was particularly inspired by the way in which maternity leave is regulated in her home country (Portugal), which provides for 24 weeks of maternity leave on full pay. However, she also took up and defended many of the specific views advocated by social NGOs and the ETUC. Social NGOs, particularly the EWL, helped the rapporteur to develop her position and assisted her with drafting amendments and justifications for her draft report:

We submitted textual amendments, we had a long discussion with her, we gave her some information and documents when she was working on her draft report. We provided her with very specific textual amendment [...] Textual amendments with justifications are absolutely key.<sup>160</sup>

The EWL and the Social Platform showed me a list of amendments they had given to the rapporteur, many of which were subsequently included in the FEMM committee report (either in the rapporteur's first draft report or in the final FEMM report) with identical wording and

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<sup>159</sup> Interview, FEMM rapporteur's assistant, 22 October 2010

<sup>160</sup> Interview, EWL, 6 April 2010

justification. S&D, Greens/EFA, and GUE/NGL MEPs in particular took up the position of social NGOs and put forward amendments that had been sent to them from the Social Platform and the EWL. The FEMM rapporteur's office worked closely with the Social Platform and the EWL during the drafting of the FEMM report:

We worked closely with the Social Platform and the EWL. Both the EWL and the Social Platform were very good at using and encouraging their member associations to lobby their national MEPs. The Social Platform and the EWL produced amendments for us. This is how it works. You cannot be an expert on everything as you have so many things to do all the time.<sup>161</sup>

The ETUC was particularly influential in leaving their fingerprints on both the EMPL opinion-giving report and the FEMM committee report on areas which were uncontroversial with MEPs:

I must say that we were quite successful. Both Mrs Plumb [the rapporteur in the EMPL committee] and Mrs Estrela [the FEMM rapporteur] have been receptive to our views, especially on issues that were quite uncontroversial, but which were very important for us, such as the health and safety dimension and the scope of the directive.<sup>162</sup>

Unlike social NGOs and the ETUC, employers' associations sought a directional change of the European Commission's proposal because they did not support a revision of the existing 1992 maternity leave directive. Given that most FEMM MEPs wanted to strengthen the European Commission's proposal, little could be done on the part of employers to convince these MEPs not to support the revision of the existing directive. The different types of change sought by the ETUC (promoting uncontroversial views), social NGOs (supporting the FEMM rapporteur), and employers' associations (wanting a directional change) show the

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<sup>161</sup> Interview, FEMM rapporteur's assistant, 22 October 2010

<sup>162</sup> Interview, ETUC, 20 July 2010

importance of distinguishing between whether interest groups promote a directional or technical change. Interest group influence appears particularly likely when interest groups seek to introduce uncontroversial amendments, and/or to pursue an interest similar to that of key MEPs (Michalowitz, 2007).

## **6.5 Conclusion**

What factors explain why the EP took up its traditional role as a policy champion of the people? As seen in the preceding discussion, three interconnected factors account for the EP's strong position on the maternity leave directive, namely: the ideological nature of the FEMM committee, the lobbying strategies taken up by affected interest groups, and the type of change sought by interest groups. All 49 interviewees portrayed FEMM as a very ideological - and at times idealistic - committee strongly defending the rights of women. This has provided social NGOs, particularly the EWL, with a fruitful parliamentary venue in which to advance their demands, but has made it challenging for employers' associations to have their voices heard in FEMM. A key finding of this chapter is that interest group influence is contingent upon interest groups facing a 'friendly' environment within the EP. On the maternity leave directive, social NGOs and the ETUC were more successful in influencing the FEMM report because the majority of FEMM MEPs pursued a strong interest of their own that was favourable to their views.

Interest groups' ability to influence EP policy outcomes is highly dependent on the committee in charge of a dossier. FEMM is generally characterised by a bias against employers' associations, and a bias towards social NGOs and the ETUC. This has led most employers' associations to divert their attention away from the committee to the plenary. Some interviewees thought that employers' reactive lobbying strategy had led to a self-fulfilling prophecy, in which FEMM MEPs took

up even more extreme positions than might have been the case if they were exposed to more symmetrical lobbying. It is doubtful whether the policy outcomes in FEMM and at the plenary would have been different had employers lobbied EP from an early start. Employers' opted for a directional change of the European Commission's proposal; they did not support any revision of the existing 1992 maternity leave directive. Their inflexible position made it even more difficult for them to influence the FEMM report as the employers' view was diametrically opposed to that of the majority of FEMM MEPs.

Employers' associations focused their lobbying messages on the costs of extending the length of maternity leave to 18 (suggested by the European Commission) and 20 weeks (suggested by the EP) on full pay. The information provided by employers' associations was, thus, more of a technical nature than political, in terms of focusing on the economic feasibility of the policy options discussed. However, all interest groups provided highly ideological arguments. For instance, employers' associations argued that increasing maternity leave risked damaging SMEs' budgets and putting a dent on young women's chances of finding employment. NGOs, on the other hand, referred to the possibility of increasing equality between men and women. These types of arguments do not easily fit with the categories of technical and political information, although ideological claims can be seen as a sub-type of political information. Ideological claims say something important about the views held by different groups of society, and, thus, different support bases. In terms of lobbying tactics, none of the involved interest groups used manifestations as part of their lobbying arsenal, but mainly relied on face-to-face lobbying (access strategies). Employers' associations were, however, successful at getting their lobbying messages parroted in the Brussels and national media.

FEMM's strong position on the maternity leave dossier has to be seen in close connection with the committee's norms and working methods. All 49 interviewees saw FEMM's preferences as deviating



substantially from the median position of MEPs. As seen in this chapter, FEMM is perceived as ‘a playpen for unserious discussions’<sup>163</sup> with MEPs’ ‘living in an ideal world’<sup>164</sup>, who ‘don’t realise that they are able to achieve things’ and tend to take up ‘one-sighted’<sup>165</sup> views. FEMM’s dealings with and position on the maternity leave directive shows that the norms and working methods of the ordinary legislative procedures have not yet taken root in FEMM. Rather than moderating its’ demands to accommodate the views of the Council, FEMM applied ‘consultation behaviour’ to a co-decision file.

The EP’s working methods and norms are very different under consultation and the ordinary legislative procedure; a point returned to in Chapter 7. The ordinary legislative procedure entails norms of legislative responsibility and pragmatism. Contrary to this, consultation provides incentives for the EP to act irresponsibly and take up strong positions – or what many interviewees referred to as drawing up a ‘Christmas wish list’ – as the EP’s political and electoral stakes are low. In FEMM, consultation remains the focal *modus operandi* with the ordinary legislative procedure being an exception. FEMM’s limited experience in dealing with legislative files suggests that the committee has not yet conformed to the new rules under the ordinary legislative procedure. As the default behaviour in plenary is to adopt the committee report, and for MEPs to follow the voting recommendations of their group (see Chapter 1), the plenary largely adopted FEMM’s report. The EP’s first reading report supported minimum maternity leave in the EU of twenty weeks with full pay, although some flexibility was given for countries which already have a form of family-related leave (the so-called *passerelle* clause). The adoption of the *passerelle* clause was crucial to secure a simple majority in favour of the report.

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<sup>163</sup> Interview, ETUC, 20 July 2010

<sup>164</sup> Interview, COFACE, 19 April 2010

<sup>165</sup> Interview, EP policy advisor, 7 June 2010

Although employers' associations had limited influence on the EP's final first reading position, they were successful at delaying the decision-making process within the EP, and in narrowing down the number of issues discussed in the EP. The numerous postponements of the plenary vote and the referral back of FEMM's report to the committee for renewed scrutiny show that the EP's decision-making process does not necessarily follow a fixed sequence of phases, but may feed backwards and forwards into another phase. This shows that the life of a dossier in the EP's (and EU's) policy cycle may be highly erratic, including several feedback loops. While employers' associations and member states sceptical towards the maternity leave directive lost the battle in the EP, they certainly won it in the Council. The maternity leave directive shows that sometimes the EP still lives up to its reputation as a lobbying venue favouring diffuse interests, at least when issues concern process standards and are dealt with by committees with little experience with the ordinary legislative procedure.

## Chapter 7: Conclusion

For most of its life the EP has had a reputation as a toothless multilingual talking shop with no real powers and as an unimportant lobbying addressee (Kreppel, 2006b; Lehmann, 2009; Scully, et al., 2012). Moreover, the EP has a reputation as being particularly open to diffuse interests, which, due to their limited resources, use ‘friendly’ MEPs to put pressure on the European Commission and the Council (Dür & Mateo, 2012; Greenwood, 2011). Paradoxically, the notion of the EP representing diffuse as opposed to business interests, conflicts with the broader political science literature on interest groups which dwells on business bias. As highlighted by Wilson (1974, 1984, 1995), business dominance is expected to be particularly prominent in policy areas characterised by client (diffuse costs/concentrated benefits) and entrepreneurial (concentrated costs/diffuse benefits) politics, and less likely in policy areas engendering majoritarian (diffuse costs and benefits) and interest group (concentrated cost and benefits) politics.

The four cases studied in this thesis correspond to different configurations of Wilson's politics of policy typology, and different types of EU standard-setting (product and process standards). While the cases represent different policy areas – environmental, consumer protection and employment policies – they all represent typical areas of EU legislation. They are all reviews of existing legislation, and are re-regulatory policies aimed at tackling the negative externalities arising from an imperfect single market. The choice of typical cases increases the external validity of my findings and reduces the risk of reaching conclusions that are purely idiosyncratic and says little about anything lying outside of the borders of the case (Gerring, 2007, p. 248). While all cases hold a degree of individuality, the findings drawn from my case studies illuminate more general findings about the institutional mechanism at play in the EP, and the nature of EU lobbying.

It is clear from my four cases that the EP is no longer a lobbying sideshow attracting disproportionate lobbying from diffuse interests. Rather, NGOs and labour unions are completely outnumbered by lobbying from business groups, such as large firms and business associations. As the powers of the EP have increased, so has attention from interest groups. In the four cases studied in this thesis, interest groups mobilised significant resources to lobby MEPs, and to convince them to modify, preserve, or abolish provisions of the European Commission's proposals. Particularly rapporteurs and shadow rapporteurs are dependent on the insight and expert knowledge provided by interest groups, and lobbying is a necessity for the functioning of the EP as an institution.

While the changing powers of the EP have brought more lobbying to the EP, they have not changed entirely the balance of power between different types of interests in the way predicted by Wilson's politics of policy typology. Policy shapes politics in some cases but not in others. The road transport directive was not characterised by a compromise between opposing groups, nor did MEPs simply capitulate to the economic muscle of industry on the food labelling regulation, and the maternity leave directive. Even on issues such as slaughter without pre-stunning - where the costs and benefits were both widely dispersed - significant lobbying occurred. However, policy did to some extent shape politics on the vans regulation. The automobile industry was both more active during the policy process and more successful at leaving its fingerprints on the EP's final report than environmental groups. How might we explain the difference in outcomes? Under what conditions does the distribution of cost and benefits arising from legislation explain interest group influence in the EP?

The method of process-tracing has allowed me to gain a detailed insight into the different factors contributing to the policy outcomes on the four case studies. This has enabled me to assess closely how and under what conditions interest groups were able to influence the EP's

policy process and outcome on my four cases. The four case studies show that the politics of policy typology sometimes has difficulties explaining interest group influence because:

- Some types of regulation are often highly conflictual among member states and highly politicised. This is particularly so on legislative proposals aimed at harmonising EU process standards.
- Just because a group bears the cost of regulation, it does not mean they will agree on how to fight the measure.
- Institutional venues can filter out and constrict interest group influence.

The above factors are elaborated further in this chapter, bringing to light the differences and similarities between the four case studies. First I present the conditions under which policy is likely to shape politics in the EP, and compare the findings from the four case studies. Lastly, I discuss whether or not the qualifications made to Wilson's typology are so fundamental that Wilson is of no use, and if there is something unique about the EP that means that my critique is unlikely to hold up anywhere else.

### **7.1 Factors on which the applicability of Wilson's typology is contingent**

My empirical findings show that the extent to which policy shapes politics in the EP is contingent upon four factors: the level of unity within lobbying spectrums, the extent to which MEPs are exposed to balanced or uneven lobbying from competing groups, the nature of the issue at hand, and the committee in charge of scrutiny. These factors can be grouped into three types of explanations: interest group, issue, and institutional explanations. Table 7.1 compares how my four case studies relate to these three types of explanations. Each of the three explanations and their

relevance to my case studies are discussed in the following sections. What is interesting to note in table 7.1 is that cases with similar interest, issue, and institutional characteristics have similar policy outcomes.

Table 7.1: The politics of policy typology applied to the four case studies

<i>Explanations</i>	<i>Vans regulation</i>	<i>Food labelling regulation</i>	<i>Maternity leave directive</i>	<i>Road transport working time directive</i>
<i>Interest group explanations:</i>				
Unity within lobbying spectrums	High	High	High	Low
Lobbying asymmetry	Biased in favour of the automobile industry	Biased in favour of the food industry	Biased in favour of labour unions and social NGOs	Biased in favour of labour unions
<i>Issue explanations:</i>				
Level of technicality	High	High	Low	Low
Level of ‘emotiveness’ <sup>166</sup>	Low	Medium	Medium	High
<i>Institutional explanations:</i>				
Cooperation between committees	High	High	Limited	Limited
Experience of the ordinary legislative procedure	Extensive	Extensive	Limited	Limited

<sup>166</sup> The term, emotiveness, was often used by interviewees to describe debates on issues of an ethical or moralistic nature.

The vans and the food labelling regulations (product standards) were both characterised by: high levels of unity within lobbying spectrums, a policy process dominated by businesses, policy issues of a highly technical nature, and high levels of cooperation between the EP committees. In contrast, the maternity leave and the working time directives (process standards) were characterised by: fragmentation within European trade associations (only on the maternity leave directive), policy issues of a more emotive nature, and limited cooperation between EP committees. These findings suggest that interest groups' ability to influence policy outcomes in the EP depends on the type of regulation in question, namely whether a proposal represents an attempt to harmonise EU product or process standards. As will be elaborated further in the next section, business groups are more likely to be internally divided on process standards than on product standards.

The distribution of costs and benefits arising from policies are particularly likely to explain interest group influence when businesses stand united, when issues are highly technical as opposed to political, and when mainstream committees<sup>167</sup> are in charge of dossiers. This is most likely to happen on legislation harmonising EU product standards than process standards. It is important to stress that one single factor alone does not explain sufficiently the influence of interest groups in my four case studies. Rather, the potential for interest groups to influence policy outcomes in the EP is contingent upon both interest group characteristics, the nature of policy issues, and EP institutional factors. On the road transport working time directive, for example, labour unions were both faced with an institutional arena favourable to their demands (the EMPL committee), a divided lobbying opponent (the IRU), and a policy issue that could be framed in ways appealing to the public good (road safety).

### *7.1.1 Interest group explanations*

It is often assumed that policy-making exhibits a bias towards business because they possess superior resources compared with NGOs and labour unions, and hold structural and technological power (Betsill & Corell, 2001;

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<sup>167</sup> Those who are predominantly working under the ordinary legislative procedure



Corell & Betsill, 2001; Falkner, 2009). While business groups might, overall, be more influential in shaping policy outcomes, both Wilson (1974) and Lowi (1964) draw our attention to the likely variance in business influence across policy areas. The likelihood that regulation reflects business dominance – and at worst regulatory capture – varies across policy domains. This is because policies are affected by the kind of interest group coalitions that oppose and support a proposal, and different coalitions form on different issues. As Wilson et al (2012, p. 333) says, ‘on any given issue, one or another interest group might be powerful, but no group is powerful across all issues’. The case studies in this thesis confirm the importance of, and privileged position held by, companies and European trade associations in EU decision-making. However, my case studies also show that business interests are faced with a number of countervailing forces that prevent them from becoming dominant. European trade associations are often faced with one major stumbling block when seeking to influence EU legislation: lack of business unity.

The a priori assumption of a uniform business interest is problematic, especially when it comes to setting EU process standards. While most business actors are likely to support market liberalisation and unnecessarily burdensome regulation, they do by no means represent a monolithic force. EU legislation has differential effects on individual businesses, often leading companies and national trade associations to compete against each other as they each want their national rules to provide the template for EU legislation (Falkner, 2001). Disagreements may also occur between companies situated at different stages of the production chain, and between market leaders and laggards (Dicken, 2003; Henderson, et al., 2002; Jones, 2005). Business conflict is a latent reality of lobbying in Brussels, and often serves to prevent the risk of business dominance over policy outcomes. To be influential, the interests of individual companies need to be aggregated, but lack of business unity often leads to collective action problems in which European trade associations become paralysed. Although European trade associations claim to speak for businesses across the EU, they are often in a weak position to influence EU decision-makers due to their need to ‘pursue the lowest common denominator position given the wide range of often conflicting

interests they speak for' (Falkner, 2009, p. 41). The oft-occurring conflict between companies from different member states means that the universe of EU business interests (companies, national associations, and European federations) cannot always be cross-read that easily into Wilson's typology. At least, it requires researchers to pay close attention to that some companies might benefit from a proposal, while others are worse off. Disagreement within the business sector implies that some companies might sometimes find themselves fighting on the same side as labour unions and NGOs.

Business fragmentation in the EU was most prevalent in my case study on the road transport working time directive. As seen in Chapter 5, the International Road Transport Union (IRU) was internally divided because their Italian, Spanish, and Portuguese associate members were in favour of regulating the working time of self-employed bus and lorry drivers. Due to internal division and cumbersome internal procedures, the IRU only started lobbying the EP when the responsible committee had already finished its deliberations on the dossier. The split within the IRU worked in favour of the labour unions, who could lobby MEPs from an early stage without competition from employers' associations. This illustrates how costs and benefits arising from legislation do not operate in a vacuum. Interest groups need time to mobilise and obtain a mandate from their member organisations. The costs of obtaining internal unity within an interest group can be significant and explain why Wilson's typology does not always match the empirical reality.

There was no division between business actors on the maternity leave directive, and only a limited rift between different automobile companies on the vans regulation. Unlike the passenger cars regulation, there was no business war between car manufacturers from different countries because the van market is more homogenous than the passenger car market. This strengthened the position of the car industry because they could speak with one voice on key issues. There was, however, disagreement lurking beneath the surface on specific issues, such as the possibility of pooling between cars and vans. Some companies were in favour of the possibility of pooling between cars and vans (such as Ford), while companies producing only cars (such as BMW) were against this because they feared they would be put at a

competitive disadvantage and that it would lead to a reopening of the passenger cars regulation.

On the food labelling regulation, the food industry was united on all main provisions of the dossier, but divergent views surfaced on the traffic light scheme pitting food producers against food retailers. This highlights the importance of distinguishing between firms operating at different stages of the production chain. Conflicting economic objectives among members of the production chain may give rise to tension. The division within the business sector found in the case studies echoes the neo-pluralist approach on business power. Similar to neo-pluralism, I do not regard business unity and influence as a given (McFarland, 2004; Nowell, 1996). Thus, the Marxist belief that business actors represent capitalist interests offers little analytical value for this study. Business influence is a contingent concept that needs to be studied in specific policy contexts and specific issue areas.

In line with the existing interest group literature, my research also finds support for the understanding of lobbying as information exchange. The currency in the Brussels lobbying field is information. The kind of information provided by interest groups to decision-makers differs across EU institutions and policy areas. All the 62 interest groups interviewed for my thesis explained that the type of information conveyed to MEPs, as well as the way in which it was presented, is very different compared with the European Commission. Interest groups are aware that they need to use less technical language when talking to MEPs, and to keep their message as short and precise as possible. Most of the interviewed interest groups would never bring more than one page when talking with MEPs, and would always try to bring visual aids (such as samples and pictures) that would make it easier for MEPs to understand any technical aspects of a proposal. The three interview extracts below from interviews with industry representatives highlight the main difference between lobbying the EP, the Council, and the European Commission:

We don't make a complete technical argument to an MEP – he/she will not be able to follow you. You just try to explain the principles of what you want to achieve, but forget the technicalities. Only very few MEPs with a technical background

will be able to understand it. You have about 20 people in Parliament, which understand the car-industry reasonably well. With the Commission, it's different... they know what they are talking about.<sup>168</sup>

The pitch with the Commission is very different than that for the European Parliament. For the Parliament, we need to convey rather technical issues very succinctly and clearly to generalists, using as many visual aids as possible. In meetings with the Commission, we are speaking to experts, and will usually have more time. While the European Parliament is an increasingly important institution, it is also challenging given that nationality plays a great role. Therefore we try to engage our national associations as much as possible as I think MEPs appreciate being contacted by their compatriots in their own language.<sup>169</sup>

In the Commission we discuss every single line of their proposal; the discussions are longer and more into details. For the Council we engage our national associations to lobby their national governments. We prepare our position and arguments. In the EP, we try to adapt our letters to the specific national context and interest of MEPs.<sup>170</sup>

The quotations highlight that interest groups need to pay particularly close attention to keeping information short and avoiding couching their lobbying messages in overly technical terms when lobbying MEPs. Hence, the need for interest groups to translate complex and technical information into brief digestible notes is particularly potent in the EP, where time is pressed and technical knowledge often limited. This does not mean that MEPs pay less attention to technical information than, say, information about public opinion and constituency interests. Rather it means that interest groups need to present technical information differently to MEPs compared to desk-officers in the European Commission. The content (message) might, thus, be the same, but the packaging it is delivered in differs.

Moreover, the EP's internal bifurcation – as both a legislative branch in EU decision-making and a public venue for wider political debate – means that interest groups often reformulate their arguments when lobbying the EP to create wider issue linkages and focus on the wider public good. Lobbyists are framers who spend much of their time trying to convince MEPs that their

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<sup>168</sup> Interview ,car-manufacturer, 14 July 2011

<sup>169</sup> Interview, representative from a European beverage industry, 13 April 2011

<sup>170</sup> Interview, representative from the food industry, 28 April 2011

issue should be seen in a particular light. Framing may change the perceived costs and benefits of legislation. What is more, policy cases might shift from one category to another. The road transport working time directive serves as an interesting example. While it represents a typical interest group politics case (concentrated costs/ concentrated benefits), the ETF managed to frame it as an entrepreneurial politics case by referring to the 'public good' of increased road safety if working time for truckers was regulated. The emotionally charged issue of road safety struck a clear chord with MEPs, many of whom took up the role of 'champion of the people' in order to secure road safety for innocent road users. What is interesting is that the ETF only addressed the issue of social dumping when lobbying the European Commission, but used the argument of road safety when lobbying the EP. This illustrates that the distribution of costs and benefits arising from legislation is not static, but that the categorisation of policies depends on the framing of the policy problem at stake. This is in line with Wilson's assertion that 'the value of [costs and benefits], as well as the beliefs about the likelihood of their materialisation can change' (1980, p. 366). Policy issues are not intrinsically only about one thing; they are also about the battle for framing and deciding the issue at stake.

MEPs exposed to one frame (interpretation of a policy issue) are more likely to take up extreme positions compared with MEPs subject to competing frames. This is particularly likely to happen if one side of a lobbying camp is internally divided and fails to take early lobbying actions, such as the case of employers' associations in the road transport working time directive. When decision-makers are exposed to a variety of alternative understandings, they are likely to reconsider and mould their support for a specific policy proposal. Thus, interest group influence is both contingent upon internal unity and the degree to which their views are challenged by competing interest groups. Lobbying asymmetry exists when MEPs are not lobbied equally by interest groups advocating different views (Potters & Van Winden, 1992; Smith, 2008).

On the vans and food labelling regulations, MEPs were mainly exposed to lobbying from business groups and, therefore, tilted more towards their position than to that of diffuse interests. On the directives on

road transport working time and maternity leave, employers were either internally divided and/or lobbied very late in the day, which gave significant tract for labour unions and social NGOs to influence MEPs' interpretations of the issues in question. The level of lobbying symmetry - the extent to which MEPs are lobbied evenly by different interest groups - is important for explaining the distribution of influence between groups (Smith, 1984). However, once interest groups have mobilised on specific policy issues, they tend to supply MEPs with similar types of information and use similar tactics. All interest groups had access to MEPs from mainstream political groups (ALDE, EPP, and S&D). However, most interest groups refrained from lobbying what they perceived to be 'extreme groups', such as the European Freedom and Democracy group (the EDF). Business groups avoided lobbying the Greens and the Confederal Group of the European United Left - Nordic Green Left (GUE/NGL) because they felt that they were speaking to deaf ears and preaching to the converted. On the food labelling regulation, the S&D shadow rapporteur refused to meet with anyone from the food industry, as she did not share their view. This staunch position was received with some surprise by many interviewees from the food industry, as they were not used to being given the cold shoulder from S&D MEPs, although their views often differ from these MEPs.

All interviewed interest group representatives explained that there was a clear working division between European federations and their members. Whereas the European federations would focus on lobbying key MEPs, national associations would focus their lobbying on MEPs from their own country, and individual companies would focus on MEPs from countries where they have their factories located. Lobbying of MEPs outside the cohort of key power-holders (rapporteurs, shadow rapporteurs and coordinators) became particularly important when lobbying on proposals concerned with process standards compared with product standards. The EP's political groups (particularly EPP and ALDE) tend to be more divided when it comes to process standards and more heavily lobbied by member states. On proposals setting EU process standards, interest groups are able to play on the diversity of the EPP and ALDE groups with the aim of bringing these groups' latent divisions on social and employment matters to the fore. The

EPP group, for instance, brings together corporatist parties from Benelux, France, Germany, and Austria and more free market parties from Scandinavia and Eastern Europe. As seen on the road transport working time directive, the labour unions (the ETF) was successful in playing on the EPP's underlying group division on social and employment affairs. With the help of legislative allies inside the EP (French EPP members), labour unions managed to completely split the EPP group by lobbying individual EPP national delegations heavily, and winning the Belgian, Greek, Italian, Portuguese, and Spanish EPP national delegations over one by one.

Assumptions in the interest group literature linking particular kinds of information and tactics to particular types of groups only found limited support in my four cases studies. The expectation from the literature is for different types of interest groups to hold a bundle of different informational goods, and to prioritise different lobbying strategies. Diffuse interests (such as NGOs) are often expected to be limited to the use of outside tactics and to the provision of political information, such as information about public opinion (associated with input legitimacy). Vice versa, business groups are often expected to rely primarily on inside lobbying tactics and be particularly adept at supplying technical information, such as information about the feasibility of a proposal (associated with output legitimacy). Furthermore, outside strategies are often described as outsider strategies that are taken up by groups with limited time and money to engage in face to face lobbying (see for instance, Eising, 2007).

As seen from table 7.2, in line with the expectation from the interest group literature, political information (such as information about public opinion and support), was mainly provided by NGOs and labour unions, and less so by business groups. In contrast to the general expectation in the interest group literature, the provision of technical information (such as the cost-effectiveness and feasibility of policies) was not only confined to business, but was also frequently provided by NGOs and labour unions. It is important to note that technical information might not be neutral and unbiased as interest groups use such information to support their (ideological) positions. As we have seen in chapter 4, both the food industry and consumer organisations used academic research findings (on how

different labelling schemes affect consumer behaviour) to support their position. The food industry used science to oppose regulatory measures that might affect the sales of their products negatively. Consumer and health organisations used science to question the healthiness and safety of food products. What is more, some types of information are difficult to classify as either technical or political because they say something about wider public support for new regulatory measures, as well as these measures' impact on people's behaviour (such as how different food labels are perceived by consumers, and the impact they have on their buying behaviour). It might be more useful, therefore, to regard technical and political information as tendencies or as ends of two continua rather than two dichotomies.

Turning to lobbying tactics, all interest groups in my study primarily relied on inside lobbying, but also frequently combined this with outside lobbying (such as using the media and holding lobbying events). However, some outside strategies are used more sparingly than others. While the use of the media and lobbying events are used frequently by most groups, petitions and manifestations are used less frequently. Demonstrations were only used by the ETF on the road transport working time directive, whereas the IRU all together refrained from using demonstrations as part of their lobbying arsenal. This indicates the importance of distinguishing between different types of outside strategies, as all interest groups use some types of outside tactics, but not others.



Table 7.2: Interest groups' information and tactics

	<i>Vans regulation</i>	<i>Food labelling regulation</i>	<i>Maternity leave directive</i>	<i>Road transport working time directive</i>
<i>Technical information provided by:</i>	All interest groups	All interest groups	Mainly by employers' associations	All interest groups
<i>Political information provided by:</i>	Only environmental groups	All interest groups	None	Only labour unions
<i>Inside strategies used by:</i>	All interest groups	All interest groups	All interest groups	All interest groups
<i>Outside strategies used by:</i>	None	The food industry	Employers' associations	Labour unions

Unlike the general expectation from the interest group literature, outside strategies were not regarded as outsider tactics. All the interviewed interest groups relied on a combination of outside (voice) and inside (access) strategies. This suggests that to distinguish between interest groups in terms of their reliance on either voice or access is an oversimplification (Page, 1999). Most interests groups enjoy access to MEPs, and rely on both access and voice lobbying strategies. The combination of these two strategies often increases the salience and urgency of the lobbying message expressed by interest groups (Chalmer, 2013). This was particularly prominent on the road transport working time directive, the maternity leave directive, and the discussions over the traffic light labelling and ritually slaughtered meat, where interest groups managed to raise MEPs' attention to issues by getting their lobbying messages parroted in the media and/or through large scale manifestations outside the EP.

### *7.1.2 Issue explanations*

The preponderance of business in policymaking is most likely in what Culpepper calls ‘quiet politics’, characterised by low salience and highly technical sector- specific policy problems. On highly salient issues, business groups have a limited chance of winning and they might be better off conserving their resources to venues where attention is less intense. Several interviewees found that MEPs have a tendency to vote with the heart when interest groups manage to couch issues in highly emotive and ethical terms. As one lobbyist stressed during interview:

Debates and decisions in the European Parliament very easily become emotional and MEPs often suggest unrealistic amendments. They are not responsible for implementation and not forced to be realistic. The Council is more pragmatic. Member states are responsible for implementation and they are not going to adopt legislation that is impossible to implement.<sup>171</sup>

As indicated by the quotation, several interviewees considered MEPs to be more sensitive to emotional and moralistic lobbying messages - such as ‘fatigue kills’ - than the European Commission and the Council. This was partly seen as a result of the EP not having responsibility for implementing EU policies. When issues are framed in emotive terms, businesses find it difficult to get their lobbying messages across to MEPs. Yet, on issues of a highly technical nature and characterised by quiet politics, businesses find it easier to have their voices heard given that they do not suffer from internal division. As Rasmussen and Alexandrova highlights, business influence is particularly likely when ‘the details of EU regulation is being fleshed out’ (2012, p. 616). For example, the politics of exemptions look a lot like the ‘world of capture’ in which regulation does not reflect the public interest but rather the immediate concern of specific interests (Lodge & Wegrich, 2012, p. 101). This was illustrated on the food labelling regulation, where several food and drink industries were successful at securing exemptions for their products. Many products that had not been excluded from the European Commission’s proposal were granted an exemption in the EP’s first and

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<sup>171</sup> Interview, Hill Knowlton, 18 May 2011

second reading reports, such as exemptions for chewing gum packages, alcopops, gift-wrapping, and non-prepacked food. Due to the very specificity of the food sectors seeking exemptions, few consumer and health organisations lobbied against the exemptions because the lobbying field on exemptions was solely populated by the food industry.

This thesis's four case studies have shown that business is more likely to shape policy outcomes on legislation concerned with product standards (when these attract little public and political attention) than process standards. This is because business finds it easier to find common grounds on product standards than on process standards (although exceptions can be found). Harmonised product standards benefit all member states and most companies because transnational firms have much to gain from access to a larger market, and product standards create a level playing field between businesses operating in one or more member states. Process standards, on the other hand, often lead to significant disagreement between member states and within European business federations due to the diverse labour-market policies and welfare state provisions in place in the EU's 28 member states. One only has to look at the European Commission's recent attempt to revise the general working directive to see how difficult it is to come to agreement on process standards in the EU. The EU has been more successful at adopting legislation on products standards than process standards. The main reason for this is that countries with higher process standards prefer to retain their high social standards rather than settling on common EU minimum standards. Contrary to this, poorer EU countries with lower process standards are afraid that common EU social standards would make them worse off competitively (Hix & Høyland, 2011, pp. 208-217).

As seen in the empirical chapters, the type of information (technical vs. political) and legitimacy (input vs. output) demanded by MEPs, as well as the type of information provided by interest groups, differs across policy domains, particularly between product and process regulations. This results in unique interest group patterns across the EP's committees in terms of interest group density, diversity, and activity (Coen & Katsaitis, 2013). The ENVI (environment), ITRE (industry), and IMCO (internal market) committees mainly deal with highly complex regulatory matters requiring

niche expertise, such as industry information about the technical feasibility and cost-effectiveness of different policy options. This increases demand for technical information and output legitimacy rather than demand for political information about public opinion, and input legitimacy.

Process standards usually draw in a wider selection of societal actors, and attract more attention from member states. Lobbying from EU governments (such as from permanent representations) was intense on the maternity leave directive and the road transport working time directive, but almost absent on the vans regulation (although the German government lobbied German MEPs) and the food labelling regulation. Intense member state lobbying of MEPs indicates that an issue is highly divisive among member states, often leading to increased media attention and politicization of proposals discussed. Directives harmonising EU process standards are less complex but tend to be more politicised and involve more member state lobbying compared with product standards (Princen & Kerremans, 2008; Scharpf, 2009). Vice versa, EP committees dealing with product standards attract less lobbying from member states and have a greater concentration of business lobbying. What is interesting to observe on the vans and food labelling regulations is that diffuse interests (environmental, consumer, and health organisations) also relied on technical information (such as research on the feasibility of different policy options) to justify their positions. Perhaps, this can be seen as a sign of NGOs trying to adapt to MEPs' demand for technical information on product regulations. Unlike the expectation from Wilson's typology, 'interest group politics' (usually concerned with process standards) did not result in compromises between opposing groups. This is because the EP committees in charge of amending European Commission proposals on process standards tend to be biased against business; a point returned to in the next subsection.

While business tend to be more influential than diffuse interests on product regulations - provided that business is internally united and the issue is not highly salient - persistent and absolute business dominance is unlikely in Brussels. The nature of EU policies, as often being revisions of existing legislation, implies that interest groups can only change proposals on the margins rather than the core. The continuous ex-post evaluation of EU

legislation means that lobbying is ‘more akin to long drawn-out trench warfare than spectacular Pearl Harbour type [battles]’ (Richardson & Coen, 2009, p. 341). The constant adjustment of past EU legislation also implies that any lobbying wins or losses are only momentary, and only last until the next revision is due.

### *7.1.3 Institutional explanations*

A key finding of my research is that EP committees are biased towards their own policy remit (also confirmed by Smith, 2008). ENVI often prioritises environmental over industry concerns, and EMPL members are seen to favour the views of employees over those of employers. However, in several cases, where a legislative proposal intersects with the policy remit of several committees, the EP's Conference of Presidents has responded by invoking the reinforced Hughes procedure. When the Hughes procedure is enforced, reports from responsible committees are less likely to be carried on the floor without taking into account the views of MEPs from associate committees. This is because committee members, particularly rapporteurs and shadow rapporteurs, act as cue-givers to non-committee members who have less information and often less intense preferences (Smith, 1984, p. 46). The more that committees are involved in the scrutiny of a legislative proposal, the higher the diversity of cues given from expert MEPs to non-expert MEPs, rendering the position of the lead committee more vulnerable to changes during plenary. Several interviewees found that the Hughes procedure provided for better cooperation and communication between the EP committees than between the European Commission's DGs and, therefore, saw the EP as a better aggregator of demands. The Hughes procedure was applied on the vans regulation, but not on the other case studies. The food labelling regulation was, however, characterised by close cooperation between the responsible and opinion-giving committees. On the directives on maternity leave and road transport working time, there was limited cooperation between the responsible and opinion-giving committees. This is one of the reasons why the committee reports on those two cases were biased against the preferences of employers. The risk of any one interest group

dominating the content of committee reports decreases with increased cooperation between responsible and opinion-giving committees.

Another key finding of this thesis is that the ability of interest groups to influence EP policy outcomes depends on responsible committees' experience of the ordinary legislative procedure. The expansion of the ordinary legislative procedure to new policy areas (such as agriculture, justice and home affairs following the Lisbon Treaty) has not only altered the dynamics between the EU institutions, but also brought about new inter- and intra-institutional norms and working methods. Different decision-making procedures not only change the formal powers held by the EP, but also affect MEPs' behaviour. Different procedures precipitate different norms. Whereas the ordinary legislative procedure encourages pragmatism and consensual behaviour, consultation fosters free-rider and confrontational behaviour on part of the EP (Ripoll Servent, 2011a, 2011b).

Under the consultation procedure, the EP must be consulted, but the European Commission and the Council are under no obligation to follow the EP's recommendations. The EP's political stakes are, therefore, low under the consultation procedure (Costello, 2011; Costello & Thomson, 2011). This provides an incentive for MEPs to act irresponsibly and to take up extreme positions – or what many interviewees referred to as drawing up a 'Christmas wish list'. What is more, reports drafted under consultation only need a simple majority at plenary to pass, giving periphery groups greater chance to influence the EP's position. On the contrary, the ordinary legislative procedure entails norms of legislative responsibility, as well as intra and inter-institutional compromise. The high majorities required to pass legislation under the ordinary legislative procedure has reduced both the EP's and the Council's room for manoeuvre and ability to forge ahead with their own agenda. The EP cannot take up extreme and uncompromising positions under the ordinary legislative procedure if it wants to reach an agreement with the Council. This reduces the range of possible policy outcomes (Burns, 2005; Burns & Carter, 2010; Shackleton, 2000).

One of the reasons why researchers find that the EP acts more responsibly and pragmatically under the ordinary legislative procedure is due to the prominence of informal trialogue meetings. Early informal trialogue

meetings between the EP, the Council, and the European Commission have allowed the EP to engage in a process of anticipatory compliance, in which it can more easily foresee which amendments might be acceptable to the Council (Burns & Carter, 2010; Farrell & H  ritier, 2003). As seen in Chapters 3 (the vans regulation) and 4 (the food labelling regulation), this has led the EP to moderate its demands to increase the likelihood of reaching an agreement with the Council. On the vans regulation, the rapporteur took up a position that would serve as a reasonable point of departure for reaching an agreement with the Council. The increased cooperation between ENVI and ITRE under the Hughes procedure as well as ENVI's adaption to the norms and working methods of the ordinary legislative procedure has made it a more compromising committee compared with its positions in the past.

While ENVI used to be seen as an environmental champion advocating the views of environmental and consumer interests, it has become more of an environmental pragmatist. This has in turn reduced the privileged position once held by diffuse interests, and provided business interests with a more favourable European parliamentary arena in which they can advance their demands. Although the EP did not act as a champion of environmental and consumer groups on the vans and food labelling regulations, it did act as a defender of women's right organisations on the maternity leave directive despite all three cases being subject to the ordinary legislative procedure. How could we explain these differences in outcomes? FEMM's dealing with and position on the maternity leave directive suggest that the norms and working methods of the ordinary legislative procedure have not yet taken root in FEMM. The consultation procedure remains the focal *modus operandi* of FEMM and EMPL with the ordinary legislative procedure being an exception. Occasionally consultation committees, such as FEMM and EMPL, are assigned a co-decision dossier. When that happens, there appears to be a tendency for these committees to apply 'consultation behaviour' to a co-decision file. As seen in Chapter 6 (the maternity leave directive), interviewees generally portrayed FEMM as a committee that did not know the rules of the co-decision game. Both FEMM and EMPL are seen as committees whose preferences differ substantially from those of the overall Parliament. FEMM took up a rather confrontational position on the

maternity leave directive that did not allow for compromises to be found between opposing views. This left the political groups in a difficult position as the default behaviour in plenary is to adopt the committee report and for MEPs to follow their group line, which is usually drawn up by the groups' shadow rapporteur and coordinator from the relevant committee.

Debates in plenary rarely go into details and amendments introduced prior to the plenary do not usually seek to change the main thrust of a committee report (Marshall, 2010; McElroy, 2006; Neuhold, 2001). On the maternity leave directive, S&D MEPs found themselves between a rock and a hard place: if they voted with the rapporteur they would risk being defeated in plenary and by the Council, and if they diverted from the group line they would break the norm of group discipline. In the end, S&D MEPs chose to follow the rapporteur's position and in the mind of most interviewees 'went for a first class funeral'<sup>172</sup> and 'went down in flames'.<sup>173</sup> The EP's first reading position did not provide a suitable starting point for negotiating with the Council, leading to the Council freezing the directive indeterminately.

My study shows that the decision to assign a dossier to a committee strongly determines policy outcomes, and the potential for different types of interest groups to influence the process and the outcome. Whenever proposals go to either the FEMM or EMPL committees, the outcomes are likely to be biased against employers' associations. This has led employers' associations to divert their attention away from FEMM and EMPL to the plenary when it is often too late to change the course of a dossier. Many interviewees thought that the reactive lobbying strategy of employers' associations when lobbying on employment issues had led to a self-fulfilling prophecy, in which EMPL and FEMM MEPs have taken up more extreme views than would have been the case if they were subject to more balanced lobbying from opposing groups. Employers' associations reactive strategies, when lobbying on social and employment issues, can also be seen as a rationale strategy, in which they seek to conserve their energy and resources for venues (such as the Council), where they stand a greater chance of being heard.

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<sup>172</sup> Meeting observation between BusinessEurope and a EPP MEP, 1 June 2010

<sup>173</sup> Interview, S&D MEP, 31 August 2010



## **7.2 Is the politics of policy typology still of analytical value?**

The findings in this thesis do not render Wilson's typology useless in the context of the EU. Instead they complement, rather than fundamentally challenge, Wilson's typology. Wilson's typology has enabled an assessment and qualification of some of the most fundamental contentions in the interest group literature – that business dominates politics to such an extent that the policy outcome reflects its interests (Permanand, 2006, p. 90). Wilson's typology offers an important insight into the types of conflicts that are likely to arise across policy domains, and highlights that the preponderance of business in policymaking only pertains to certain policy domains. Much of the existing literature on interest group influence does not highlight how the risk of business capture only pertains to certain types of policies but not to others (for an exception, see Coen & Katsaitis, 2013).

As expected from the politics of policy typology, interest groups faced with a prospect of shouldering concentrated costs were more active in pressing their demands before the EP than interests facing diffuse benefits on the vans and food labelling regulations. This was, however, not the case on the directives on maternity leave and road transport working time, as European trade associations were faced with internal fragmentation and an unfriendly EP institutional arena. The findings of this thesis show that the applicability of Wilson's politics of policy typology to the EP is contingent upon three main conditions: (1) unity within lobbying spectrums, (2) limited member state lobbying (i.e. low levels of politicization), and (3) dossiers being dealt with by the EP's mainstream committees.

Firstly, just because an industry bears the cost arising from legislation, it does not mean that it will agree on how to fight the measure. Businesses and trade associations from different member states often compete against each other because they want their model to provide the template for EU legislation. Wilson does not take into account that business groups often need time to mobilise on specific issues. Costs and benefits do not operate in a vacuum. Firstly, interest groups need time to mobilise and obtain a mandate from their member organisations. The costs of obtaining

internal unity within an interest group can be significant and explain why Wilson's typology does not always match the empirical reality.

Secondly, since Wilson's framework is not formulated in an international/European context, he does not incorporate the possibility of national divisions into his typology. My research has shown that some EU issues are more prone to conflict and politicization than others, particularly when it comes to process standards tinkering with member states' diverse welfare systems and labour market relations. Legislation concerned with harmonising EU process standards tends to attract increased attention from member states, and often divides the EP politics groups along national lines. To some extent, national conflict on process standards can be incorporated into Wilson's typology. Most directives aimed at setting process standards spark, what Wilson calls, interest group politics (concentrated costs and benefits), associated with significant levels of conflict between opposing groups. However, depending on the cost-benefit profile, process standard directives might also be classified as entrepreneurial politics (diffuse benefits/concentrated costs). Wilson does acknowledge that entrepreneurial politics sometimes attract significant public and political attention (particularly in the advent of a focusing event), which limit the potential for interest groups facing concentrated costs to shape policy outcomes. However, Wilson sees such situations as short-lived as decision-makers are assumed to find themselves in an environment where much of the technical information they need is in the hand of an interest group opposed to its goals. My research has shown, however, that directives concerned with process standards tend to be characterised by long-lasting public and political attention because they create significant national divisions between MEPs and member states. Furthermore, decision-makers are less dependent on technical information (and, thus, business lobbying) on directives harmonising EU process standards, but more dependent on information about public support (often provided by NGOs and labour unions). This shows that within Wilson's four politics categories, a further distinction needs to be made between product and process standards.

Thirdly, Wilson's typology does not account for institutional factors, but focuses solely on how costs and benefits arising from legislation affect

interest groups' incentives to become active on an issue. My thesis has shown that institutional factors are crucial for understanding interest group influence in the EP for two reasons. Firstly, the ability of any one interest group to influence EP policy outcomes diminishes when proposals are examined by mainstream committees and when the Hughes procedure is invoked. Secondly, national and European trade associations find it immensely difficult to influence EP policy outcomes whenever proposals go to committees with limited experience of the ordinary legislative.

Furthermore, Wilson's criticism of Lowi's model - that it is difficult to assign policies to just one category - also applies to Wilson's own typology. It is not always possible to classify costs and benefits as either diffuse or concentrated. As seen on the maternity leave directive, there are 'intermediate cases and the high-low (concentrated-diffuse) measurement is inevitably a relative one' (Permanand, 2006, p. 88). What is more, policy issues might shift from one category to another, such as the road transport working time directive, depending on how interest groups frame issues. Despite these short-comings, Wilson's typology: sheds important light on interest groups' incentives to become active on an issue; helps to identify the constraints decision-makers are working under (such as lobbying pressure from specific interests, such as business groups); and highlights how divergent interests may give rise to different types of politicking. By viewing policy-making through the theoretical lens of the politics of policy typology, I have explained under what conditions common assumptions in the interest group literature - how policy shapes politics - find resonance in the EP. This thesis has provided key insights into how and why certain policy outcomes come about, and why some interest groups are more successful at leaving their fingerprints on the EP's reports than others. The thesis has also shown that the EP's interest group system is far from the *élite* pluralist label often assigned to the European Commission (see for instance, Coen 1997; Eising, 2007). Nor does the EP live up to its traditional role as champion of diffuse and electorally popular causes. Rather, the EP's interest group system can be characterised as what Coen and Richardson (2009) call 'chameleon pluralism', in which interest group density and activity is a function of the type of policy in question. In the EP, interest groups' mobilisation on specific

issues and their likelihood of winning particular conflicts is a function of the policy issue at hand, issue salience, and the committee in charge of amending the proposal in question.

### **7.3 Would my findings on interest group influence hold up elsewhere?**

Although my study is limited to the EP, many of my findings are likely to go beyond the institutional venue studied. Firstly, the thesis highlights how the general assumption in the interest group literature on business dominance must be modified and studied in the context of specific issue areas. In any democratic political system, business groups can be expected to be particularly influential whenever ‘quiet politics’ kicks in (that is, low salience and highly technical issues), but less influential when issues become salient and politicised. Client and entrepreneurial politics are particularly likely to be characterised by quiet politics in the long run (unless it involves setting EU process standards). In the short term, increased media attention to an issue might be enough to set the cat among the pigeons and turn an issue into a moralistic crusade, in which politicians try to fend off the pressures of the cost-bearing industry. However, Wilson acknowledges that ‘noisy politics’ is often short-lived because decision-makers often find themselves in an environment in which much of the technical information they need is in the hands of industry. Thus, the influence of interest groups representing the wider public is expected to be momentary and involves entrepreneurs who only temporarily surf the public wave. However, when public interest fades, politics return to normal and business groups tend to dominate politics. In the EU, however, directives harmonising EU process standards tend to be characterised by constant high levels of issue attention from member states and fragmented European business federations.

Secondly, business fragmentation is not a phenomenon solely confined to the EU, although it is likely to be more frequent and severe in the EU due to the high number of national interests that need to be reconciled within European trade associations. Fragmentation within trade associations is also the reality at the national level, where national trade associations have

a diverse membership basis. The Confederation of British Industries (CBI) is often said to suffer from a 'stifling breadth' because it has a diverse membership consisting of both small and large companies, importers and exporters, and retailers and financiers (Grant, 1989, p. 121). Most national confederations have a large and diverse membership often leading to internal tension and conflict.

What about the role of institutional factors; do they hold up outside the EP? Although the EU's legislative branch is not a typical legislature because of the unique decision-making procedures and rules in place in the EU, the EU's institutional design does resemble other strong bicameral systems, such as the US, Germany, and Switzerland (Costello, 2011, p. 122). My finding that interest group influence is contingent upon the committee in charge and the level of cooperation between committees – might, therefore, find resonance in other bicameral systems. Studies on the US Congress, for example, find that committees have a tendency to be biased towards their own policy remit (Gilligan & Krehbiel, 1997; Hall, 1989; Shepsle & Weingast, 1987; Smith, 2008; Smith, 1984). While individual committees might favour some interest groups over others, increased cooperation between committees decreases the risk of biased policy outcomes. However, the degree to which committee bias matters for final policy outcomes depends on how strong committees are vis-à-vis the full chamber. Almost all democratic legislatures depend on committees to scrutinise proposals put forward by the executive, but the role and importance of committees varies across legislatures. At one end of the continuum are the EP and the US Congress, where the bulk of the legislative work takes place in highly specialised committees. The former US President Woodrow Wilson's description of the US Congress as a government by the standing committees of Congress also finds resonance in the EP (National Democratic Institute for International Affairs, 1996, pp. 5-6). The EP's 20 standing committees are described as the EP's 'legislative bone' (Neuhold, 2001; Westlake, 2007), where a substantial amount of legislative work and negotiations are done - 'the EP in committee is the EP at work' (McElroy, 2006, p. 180). At the other end of the spectrum is the British Parliament, where 'committees conduct only a cursory review of draft legislation, and permanent committees have a limited oversight function'

(National Democratic Institute for International Affairs, 1996, p. 6). In the middle are legislatures such as the French National Assembly, the German Bundestag, and Scandinavian Parliaments, where committees play an important and active role in the decision-making process, although they lack the teeth of the committees in the EP and US Congress (Kreppel, 2008).

In most national parliaments, where governments hold the majority, the outcome of a proposal put forward by the government is usually clear. ‘Some people even claim that certain national parliaments are little more than rubberstamps of their government’s legislation’ (Corbett, 2012). This is certainly not true in the EP, where MEPs shape the details of legislation in ways that MPs do not. All MEPs have the potential to shape legislation by suggesting amendments. Because of committees’ key role in debating and amending the European Commission’s proposal, plenary outcomes rarely alter committee reports significantly. Therefore, the choice of responsible committee matters a great deal for the policy outcome and for interest groups’ ability to influence final EP policy outcomes. This means that my finding of ‘committee in charge’ is less likely to be upheld in national parliaments with weak committee systems. The ‘committee in charge’ may be expected to serve as an even stronger explanation of policy outcomes in the US Congress given that committees in the Congress, unlike the EP, can bury proposals from the executive.

The second institutional factor – committees’ experience of the ordinary legislative procedure – might not find prominence outside the EU setting, although most national parliaments operate under different legislative procedure according to the policy issue in question. For example, most countries’ budgetary procedure is different to procedures used on ordinary proposals. Furthermore, most federal states have different decision-making procedures and voting rules in place according to whether or not provinces/regions are affected, such as Belgium, Canada, Germany, South Africa, Switzerland, and the US. One could, therefore, also imagine that MPs’ legislative behaviour and openness to certain types of interest groups vary according to the decision-making procedure in place.

In the EP, Wilson’s politics of policy typology is most likely to find resonance on product standard regulation, where European business

federations usually stand more united and dossiers are dealt with by mainstream committees. Mainstream committees tend to be more compromising in order to increase the likelihood of reaching an agreement with the Council. Because of this, extreme policy outcomes are unlikely in these committees, but this has not always been the case (Burns & Carter, 2010). For much of the EP's existence - when its legislative powers were limited - it saw itself as being part of a long-term power battle, where it was prepared to adopt challenging amendments that would go to conciliation, or even sacrifice legislation to boost its legislative powers vis-à-vis the European Commission and the Council (see, for instance, Burns & Carter, 2010; Shackleton, 2000). The EP's previous role as a champion of diffuse and electorally popular causes is likely to have been tied, partly, to its quest for more powers, and its past tendencies to take up more extreme and idealistic positions that would be challenging for the other EU institutions. Today, the EP is faced with a larger amount of legislative work and a Council who is prepared to engage in informal dialogue earlier in the legislative process, as well as increased business lobbying (Shackleton, 2000).

With the application of the ordinary legislative procedure to most areas under the Lisbon Treaty, the EP has won many of its battles for more legislative powers. This has in turn led the EP committees - at least those primarily working under the ordinary legislative procedure - to moderate their demands in order to be seen as a credible and serious legislative player, and reduced the privileged position once held by NGOs and labour unions. For committees still subject to consultation, the quest for more power is not yet accomplished, and the old working methods and norms of idealistic and uncompromising behaviour still prevail. Perhaps with time, if consultation ceases to exist, these committees will also adapt to the norms underpinning the ordinary legislative procedure, and opt for more compromising policy positions. However, committees dealing with process standards will still be faced with intense national pressure and fragmented European business federations, preventing business from becoming too dominant in the lobbying process. Yet, as long as some EP committees are trapped between old and new procedures, members of these committees are likely to continue taking up more extreme positions biased against business. Regardless of

what the future holds, interest groups' mobilisation on specific issues, and the likelihood of them winning particular conflicts, will most likely continue to be determined by the type of policy issue in question. As seen in this thesis, the activity and influence of interest groups largely depend on whether legislation is concerned with product or process standards.



## **Appendices:**

### **Appendix 1: Semi-structured interview guide for interest group representatives**

#### **Introduction**

- Presentation of my research
- I am interested in understanding how [insert organisation name] has sought to influence the EP on [insert name of legislation], and with what result.
- Anonymity
- Can I record the interview? (I will suggest that the tape recorder can be switched off at any time if they do not want to have certain statements recorded).

**Importance of the proposal for the organisation** (my own notes are written in brackets):

- How important is the [insert name of proposal] for your organisation compared to other issues you are currently working on?
- How many people within your organisation have been working on the case? (resources)

#### **Preferences**

- What kind of changes to the Commission's proposal would you have liked the European Parliament to introduce? (directional or technical changes)
- How and when was your organisation's position on the proposal [insert proposal name] decided?
  - Was there any disagreement between your member organisations that made it difficult to decide on a common position, and take early action?
  - Which aspects of the dossier are most important for [insert name of interest group]?

- How well do you think the Commission's proposal addressed your concerns?
- Do you think the Commission's proposal would have been any different had you not lobbied?
- What was your organisation's main purpose of lobbying the European Parliament on [insert proposal name]? (for instance, unsuccessful lobbying in the Commission, counter-active lobbying, changing the political direction of the proposal or changing technical details)
- Did you raise the same concerns to the European Parliament as you did to the European Commission?

**Lobbying strategies:**

- Open question: Could you tell me a bit about how your organisation has sought to influence the European Parliament on the proposal on [insert proposal name]?
- What impediments did you face in achieving your objectives on lobbying Parliament on this issue [insert proposal name]?
- Has your way of lobbying the European Parliament on [insert proposal name] been different to that of the Commission and the Council? (capture the EP intricacies)
  - For example, have you had to pitch the issue in a different way?
  - Have the type of information and views put across to MEPs differed from those put forward to the Commission and the Council?
  - How important do you think the European Parliament has been compared to the Commission and the Council for [insert organisation name] lobbying on [insert proposal name]? (Is the EP a side-show or of major importance to interest groups?)

## **Timing of lobbying the EP**

- When did you first contact the staff and members of the European Parliament?
  - Why was it decided to contact the EP at this point in time?
  - Would you have contacted the European Parliament at an earlier stage if you had more time and resources available?
  - Is [insert name of interest groups] running any parliamentary intergroups/forums/delegations?
    - If so, did you discuss [insert name of dossier in question] in [insert name of the intergroup/forum/delegation mentioned by the interviewee]?

## **EP lobbying target**

- Which MEPs do you think have had the biggest impact on the committee report?
  - [Show the interviewee a list of all the committee members in the responsible and opinion-giving committees] Who have you been in contact with [insert name of dossier in question]? (If the interest group has not been in contact with key MEPs, ask why that was the case).
  - Why did you contact this/these MEP(s)? How did you decide on which MEPs and staff to contact?
- If you know in advance that an MEP opposes the position of your organisation, to what extent, if any, does this prevent you from contacting this MEP?
- Do you have better relations with some MEPs than others?
- Do you usually target the same MEPs when lobbying in the [insert name] committee?
- Did you find that most MEPs had a clear position on the proposal on [insert name] from the outset? (Lobbying may be about shaping rather than about changing MEPs' opinions)

## **Lobbying coalitions**

- To what extent have you cooperated with other interest organisations when lobbying on [insert proposal]?
  - If the organisation has lobbied alone:
    - Why did you choose to forge ahead alone?
    - Have there been any disadvantages of lobbying alone?
  - If the organisation has participated in some form of lobbying network:
    - Why did you choose to band together with this/these organisation(s)? (For example, divvying up tasks, sharing information, or signalling to MEPs that there is a broad support basis etc.)
    - Have you been cooperating with this/these organisation(s) before? (Ad hoc or more formalised networks)
    - Did you cooperate with this/these organisation(s) throughout the whole policy-making process, or only when lobbying the EP?
    - What do you think the benefits have been of cooperating with this/these organisation(s)?
    - How effective did you consider this strategy to be (compared to lobbying alone)?

## **Interest group influence on the EP policy outcome**

### **On the committee report:**

- How did you seek to influence the committee report (e.g. sending amendments to MEPs, helped with writing the report etc.)?
- Have you been in contact with the rapporteur [insert name] during his/her preparation of the draft report?
- Did you send amendment suggestions to MEPs?
- Have you been contacted by any MEPs or Parliament staff regarding the proposal on [insert name]?

- Why did they contact you?
- Did they take your position into account? (such as launching an amendment reflecting your view)
- Do you think the committee report on [mention relevant dossier] would have been any different if [insert name of interest group] had not lobbied?
  - Can you point out any specific parts of the committee report where your organisation has had an impact?
  - Did you manage to get any amendment included in the committee report?
    - If yes: How did you manage to get it included? Can you show me the draft of the amendment(s) that you gave to the MEP?
    - If no: Why do you think you were unsuccessful in getting the amendment included in the report?

**On the EP's final vote (the political groups' voting lists and plenary amendments)**

- Did you seek to influence any of the political groups' voting lists?
  - If no: Why not?
  - If yes: How did you seek to influence the voting lists? What impact did it have?
- Did you seek to influence any MEPs prior to the vote at plenary? Who, how, and with what result?
- In your opinion, does the final EP policy outcome reflect a compromise between interest groups?
- Do you think that the policy outcome would have been any different if you had not lobbied Parliament?

**General questions:**

- Has your lobbying strategy on [insert proposal name] been any different to your organisation's usual way of targeting Parliament?
- Does [insert organisation name] have any overall guidelines on how to lobby the EP?
- Is there any lobbying behaviour that you consider to be unacceptable, or inappropriate in the European Parliament?
- What does it take to lobby successfully in the European Parliament?

## **Appendix 2: Semi-structured interview guide for rapporteurs**

### **Stakeholder consultations**

- Why did you decide to become rapporteur on [insert name of dossier]?
- How did you go about consulting stakeholders?
- Do you have guidelines within [insert name of their EP political group] or your national delegation of how to go about consulting interest groups?
- How did you decide on which interest groups to consult?
  - Are there some groups that you do not talk to?
    - If so, why?
- What role did your national party at home and [insert MEP's country] permanent representation to the EU have for your work on this dossier?
  - Did they assist you?

### **Opinion-formation**

- Did you already have a fairly good idea of what changes you wanted to introduce to the Commission's proposal before consulting stakeholders?
- This dossier [insert name] is highly technical and complicated in terms of [refer to specific aspects/provisions] – what did you do to become more familiar with these aspects?
- Do you think you would have been able to fulfil your role as rapporteur without information provided by interest groups?
- Did any interest groups point to new angles of the proposal that you were previously unaware of?
  - If yes: Could you provide an example of this?
  - To what extent did information provided by interest groups shape or change your position on specific provisions?

### **Lobbying activity levels**

- What interest groups did you find to be most active in lobbying Parliament on this dossier?
- What role do you think lobbying played on this dossier?
  - Do you think there are certain issues that would not have been discussed without interest groups alerting MEPs to them?
  - Do you think there are amendments that would not have been launched without interest groups suggesting them to MEPs?
  - As a guess, how many amendments tabled in the EP on this dossier do you think stem from interest groups?

### **Changes introduced to the Commission's proposal in the draft report** (here I talk about the amendments the MEP has put forward)

- Why did you decide to put forward these amendments (refer to specific amendments put forward by the MEP)?
- Interest groups often play an important role in terms of providing technical information about the impact of the Commission's proposal. What role did information provided by [refer to specific interest groups active on the dossier, such as the car industry or green organisations] have for your decision to put forward these amendments [refer to specific amendments]?
- In general, do you think your draft report would have been any different if you had not had the opportunity to seek advice from interest groups?



### Appendix 3: Maternity leave provisions in the EU member states

Member States	Length (weeks)	Payment level	Contributions:
Austria	16	100 % of average net earnings in the previous 13 weeks (three months) with no ceiling	Statutory health insurance
Belgium	15	Usually 82 %, but depends on sécurité sociale	Compulsory social insurance scheme mainly financed by contributions by employees
Bulgaria	32	90 % of the average daily wage or of the insured income	Social insurance contributory scheme financed by employers and insured person
Cyprus	18	75 % of average income is paid by the state & common practice the other 25 % to be paid by the employer (not obligatory)	Social security scheme, financed by contributions from employers, the insured persons, and the state
Czech Republic	28	69 %	Social security contributions financed by employers, employees, and self-employed
Denmark	20	100 %	Tax financed (but state's expenditures are reimbursed by a labour market fund, financed by contributions by employees and self-employed)
Estonia	20	100 %	Social security: Health insurance fund with contributions made by the state and employers
Finland	21	Usually 70% of previous earnings depending on collective agreements; minimum amount is 15.20 EUR	Social insurance system financed by statutory contributions from the insured, employers, and with funding from the public sector
France	16	100 %	Social security: Health insurance funds financed by statutory contributions from the insured, employers, and with funding from the public

			sector.
Germany	14	100 %	Statutory health insurance scheme financed by contributions from the insured, employers, and taxes
Greece	17	100 %	Pregnancy and confinement benefits: social security based on three-party financing (employee, employer, and the state)
Hungary	24	70 %	Health insurance, finances by insured persons, employers, and taxes
Ireland	42	80 % (only 26 out of 42 weeks are remunerated)	Social insurance fund, financed by employees and employers
Italy	22	80 %	Social security, financed by employers
Latvia	16	100 %	Social insurance fund, financed by insured persons and employers
Lithuania	18	100 %	Social insurance, financed with contributions from the employers and the insured
Luxembourg	16	100 %	Social Security, financed through contributions made by employees, employers, and the state
Malta	14	100 %	Social Security (overall contributions from employers, employees, self-employed persons, and the state)
Netherlands	16	100 %	Social security funds financed through contributions
Poland	20	100 %	Compulsory social insurance scheme providing earnings-related benefits to all employees
Portugal	24	100 %	Compulsory social insurance scheme for the active population (employees and self-employed) with benefits related to the registered earnings
Romania	18	85 %	Paid from the state's health insurance budget
Slovakia	28	55 %	Social insurance, financed

			by insured persons, employers, and state subsidy
Slovenia	15	100 %	Social insurance, financed by insured persons, employers, and taxes
Spain	16	100 %	Social security system, financed by contributions from the state, the insured, the employers, interests, fines, and other income
Sweden	14	80 %	Social insurance funds, mainly funding by employers
United Kingdom	52	90 % for the first 6 weeks paid by the employer, followed by 33 weeks at the flat rate of £124.88 per week. The remaining 13 weeks are unpaid	Financed through contributions (employees and employers), taxes, and employers

*Source:* Authors own table based on information from the International Labour Organisation. For a more detailed account of each member states' maternity leave provisions, see: <http://ec.europa.eu/social/main.jsp?catId=858&langId=en> (last accessed 26 August 2012).

## **Appendix 4: Interview list**

### **A. General interviews**

1. Policy officer, the European Public Health Alliance, EPHA, 28 April 2009
2. European Commission official, DG for Environment, responsible for relations with other EU institutions, 27 April 2009
3. MEP, ALDE, 27 November 2008
4. Director, the Confederation of Danish Industries, DI, Brussels, 20 April 2009
5. European Parliament assistant to ALDE MEP, 30 April 2009
6. Director, Burson Marsteller, 23 April 2009
7. EP liaison officer, Business Europe, 30 April 2009
8. European Commission official, DG for Agriculture, responsible for relations with other EU institutions, 21 April 2009
9. Representative, the European Association for Bio-industries, Europe-Bio, 20 April 2009
10. MEP, EPP, 27 November 2008
11. Vice Secretary General of the EP's S&D group, 29 April 2009
12. EP policy advisor, cabinet of Jerzy Buzek (EP president 2009-2011), 28 April 2011
13. EP policy advisor, cabinet of Jerzy Buzek (EP president 2009-2011) 4 May 2011

### **B. The reduction of CO<sub>2</sub> emissions from vans**

14. European Commission official, DG for Environment, 2 March 2010
15. European Commission official DG for Climate Change, 17 August 2011
16. MEP, EPP, member of ENVI, 6 October 2011
17. EP assistant to EPP MEP, 23 July 2011
18. MEP, ECR, member of ENVI, 13 July 2011
19. EP official, ENVI committee administrator, 10 July 2011
20. EP official, ENVI committee administrator, 9 August 2011
21. MEP, Greens/EFA, 24 May 2011

22. MEP, ALDE, 22 September 2011
23. EP official, ALDE advisor, 9 September 2011
24. EP official, EPP advisor, 24 March 2011
25. Diplomat, the German Permanent Representation to the EU, 21 September 2011
26. Diplomat, the Dutch Permanent Representation to the EU, 15 September 2011
27. Hartmut Baur, Daimler, 9 September 2009
28. Director, FIAT's delegation to Europe, 11 July 2011
29. Head of Corporate Communications, FIAT's delegation to Europe, 11 July 2011
30. Policy advisor, FIAT's delegation to Europe, 11 July 2011
31. Executive Director, Governmental Affairs, Europe at Ford Motor Company, 18 July 2011
32. Senior Manager, Toyota, 14 July 2011
33. Public affairs manager, Renault, 11 July 2011
34. Director of Parliamentary Affairs, European Automobile Manufacturers' Association, ACEA, 23 September 2011
35. Senior Campaigner, Transport and Environment, T&E, 11 July 2011
36. EU transport policy campaigner, Greenpeace, 18 July 2011
37. Head of Brussels office, German Association of the Automotive Industry, VDA, 9 September 2011
38. Head of European Government Affairs, Jaguar Land Rover, JLR, 11 July 2011

### **C. Food labelling to consumers**

39. EP official, Greens/EFA advisor, 17 Feb 2011
40. EP official, S&D advisor, 22 February 2011
41. EP official, EPP advisor, 24 March 2011
42. EP official, ALDE advisor, 23 February 2011
43. EP assistant to EPP MEP, 26 May 2011
44. EP assistant to S&D MEP, 22 February 2011

45. MEP, Greens/ EFA, member of ENVI, 24 May 2011
46. EP assistant to ECR MEP, 27 April 2011.
47. EP assistant to ALDE MEP, 18 February 2011
48. EP assistant to ALDE MEP, 14 September 2011
49. Policy officer, the European Public Health Alliance, EPHA, 25 February 2011
50. Policy officer, the European Public Health Alliance, EPHA, 25 February 2011
51. Head of Department, the European Consumers' Organisation, BEUC, 16 March
52. Director, European heart network, EHN, 6 April 2011
53. Policy officer, Eurocare, 17 May 2011
54. Veterinary Advisor, European livestock and meat trading union, UECBV, 12 April 2011
55. Deputy Director, FoodDrinkEurope, 19 July 2011
56. European public affairs manager, Unilever, 18 February 2011
57. European Affairs Manager, Nestle, 13 April 2011
58. Senior officer, European Dairy Association, EDA, 8 June 2011
59. Director, European Spirits organisation, CEPS, 28 April 2011.
60. Regulatory Affairs Manager, The Brewers of Europe, 15 April 2011
61. Manager public affairs Europe, Kellogg, 25 May 2011
62. Account manager, Keller and Heckman, lobbied on behalf of European Natural Soyfoods manufacturers, ENSA & Wrigley, 18 May 2011
63. Secretary General, the International Margarine Federation of the Countries of Europe, 5 July 2011.
64. European Natural Sausage Casings Association, Ensca, 26 September 2011

#### **D. The working time directive in road transport**

65. Political Secretary, European Transport Workers' Federation, ETF, 20 July 2010

66. Political Secretary, European Transport Workers' Federation, ETF, 13 October 2010
67. EP assistant to EPP MEP, 22 July 2010
68. MEP, EPP, member of EMPL, 22 July 2010
69. Head of social affairs, the International Road Transport Union, IRU, 17 August 2010
70. EP assistant to S&D MEP, 19 August 2010
71. EP official, S&D administrator, 19 August 2010
72. EP official, EMPL committee administrator, 24 August 2010
73. EP official, ALDE policy advisor, 26 August 2010
74. MEP, S&D, 31 August 2010
75. EP official, GUE/NGL policy advisor, 31 August 2010
76. Policy advisor, European Small Business Alliance, ESBA, 1 September 2010
77. EP official, ECR policy advisor, 1 September 2010
78. EP official, EPP policy advisor, 3 September 2010
79. EP official, ALDE policy advisor, 26 August 2010
80. European Commission official, policy officer, DG for Transport and Mobility, 13 September 2010
81. EP assistant to S&D MEP, 21 September 2010
82. Secretary General, UETR, European Association of Road Hauliers, UETR, 27 September 2010
83. EP assistant to EPP MEP, 28 September 2010
84. Advisor, the European Association of Craft, Small and Medium-sized Enterprises, UEAPME, 29 September 2010
85. EP assistant to Green/EFA MEP, 1 October 2010
86. EP assistant to EPP MEP, 1 October 2010
87. EP official, EFD advisor, 12 October 2010
88. EP assistant to ECR MEP, 12 October 2010
89. Manager European Affairs, the Dutch association for transport operators and logistics service providers, TLN, 2 November 2010
90. Director EU Affairs, Danish Association for Transport Operators and Logistic Service Providers, 10 November 2010
91. MEP, EPP, member of EMPL, 16 November 2010

- 92. MEP, S&D, member of TRAN, 16 November 2010
- 93. EP assistant to EPP MEP, 16 November 2010
- 94. EP official, Greens/ EFA advisor, 17 November 2010
- 95. EP official, S&D advisor, 13 December 2010

## **E. The maternity leave directive**

- 96. European Commission official, DG for Employment, Social Affairs and Equal, 24 March 2010
- 97. European Commission official, DG for Employment, Social Affairs and Equal, 5 November 2010
- 98. Diplomat, the Danish Permanent Representation to the EU, 25 March 2010
- 99. Policy officer, European Women's lobby, EWL, 6 April 2010
- 100. Policy advisor, Eurochambers, 6 April 2010
- 101. Policy advisor, EuroCommerce, 7 April 2010
- 102. Policy advisor, Confederation of Family Organisations in the EU, COFACE, 7 April 2010
- 103. Social Affairs Policy Director, the European Association of Craft, Small and Medium-sized Enterprises, *UEAPME*, 8 April 2010
- 104. Social Affairs Policy Director, the European Association of Craft, Small and Medium-sized Enterprises, *UEAPME*, 13 December 2010
- 105. Advisors, European Trade Union Confederation, ETUC, 9 April 2010; 25 November
- 106. Advisor, European Trade Union Confederation, ETUC, 25 November
- 107. Advisor, Business Europe, 9 April 2010
- 108. Advisor, Business Europe, 9 November 2010,
- 109. Senior Adviser for EP Affairs, BusinessEurope, 9 November 2010
- 110. EP assistant to S&D MEP, 15 April 2010
- 111. EP assistant to S&D MEP, 22 October 2010
- 112. EP official, EPP advisor in FEMM, 15 April 2010
- 113. EP official, EPP advisor in FEMM, 28 October 2010
- 114. EP official, Green/EFA advisor in FEMM, 15 April 2010
- 115. EP official, FEMM administrator, 16 April 2010



116. EP official, FEMM administrator, 9 November 2010
117. Advisor, Business Europe, 19 April 2010
118. Policy officer, European Disability Forum, EDF, 20 April 2010
119. Director, the Social Platform, 20 April 2010
120. EP official, ALDE advisor in FEMM, 21 April 2010
121. EP liaison officer, European Trade Union Confederation, ETUC, 22 April 2010
122. MEP, GUE/NGL chair of FEMM, 31 May 2010
123. MEP, GUE/NGL, member of FEMM, 2 June 2010
124. EP assistant to EPP MEP, 3 June 2010
125. EP assistant to EPP MEP, 7 June 2010
126. EP assistant to EPP MEP, 7 June 2010
127. MEP, ECR, 7 June 2010
128. MEP, ALDE, 8 June 2010
129. MEP, EPP, 8 June 2010
130. EP official, EMPL administrator, 9 June 2010
131. EP official, EMPL administrator, 21 September 2010 2010
132. EP official, EMPL administrator, 22 October 2010
133. EP assistant to ALDE MEP, 11 June 2010
134. EU and international affairs policy officer, Federation of Small Businesses, FSE, 12 July 2010
135. Policy officer, European Anti-poverty network, 16 July 2010
136. EP assistant to EPP MEP, 16 July
137. Confederal Secretary, European Trade Union Confederation, ETUC, 20 July 2010
138. Intern, European Women's lobby, EWL, 3 November 2010
139. EP official, ALDE policy advisor in FEMM, 29 October 2010
140. Head of European Representation, British Chamber of Commerce, 11 November 2010
141. Social policy advisor, Confederation of German Employers, BDA, 5 November 2010
142. EP assistant to ALDE MEP, 20 December
143. EP official, S&D advisor in FEMM, 14 January 2010
144. EPP MEP, 1 June 2010

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