EU ENVIRONMENTAL

POLITICS OR POLICIES?

A Process Tracing Study of the 7th Environment Action Programme Analyzing the Positions of the European Commission and the Netherlands Using the Theories of Liberal Intergovernmentalism and Neofunctionalism

A thesis submitted in partial fulfillment of the requirements for the degree of

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# Abstract

This thesis seeks to understand and explain environmental policies in the EU. The overarching framework for this is currently the 7th Environment Action Programme (EAP). This is a policy plan that lays down environmental objectives that should be met by 2020 and allows for the adoption of more substantive legislation in order to reach those goals. The literature has found out that the Commission and the Netherlands as a Green Sextet Member State have been important for this field of competence. Therefore, this thesis investigates whether or not this was still the case by reconstructing the coming about of the latest EAP and explains how and why their interests have become consolidated into this piece of legislation. By using process tracing, the theories of liberal intergovernmentalism and neofunctionalism are tested in order to find out to what extent they are able to explain the creation of the 7th EAP. This thesis argues that the outcome of the 7th EAP negotiations were similar to the assumptions of liberal intergovernmentalism while the overall process resembled neofunctionalism. The thesis also concludes that soil policies and the acknowledgement of a common responsibility were some of the crucial debates during the informal trialogues.

*Keywords*: EU, environmental policies, Netherlands, European Commission, European integration theories

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# List of Abbreviations

CEE Central Eastern Europe(an)

COREPER Committee of Permanent Representatives

DG Directorate-General

EAP(s) Environment Action Programme(s)

EC European Community

ECOFIN Economic and Financial Affairs Council

ECSC European Coal and Steel Community

EEA European Environment Agency

EEB European Environmental Bureau

EEC European Economic Community

EMU Economic and Monetary Union

ENVI Environment, Public Health and Food Safety

EP European Parliament

EPI Environmental Policy Integration

EPP European People’s Party

EU European Union

IEEP Institute for European Environmental Policy

IGC Intergovernmental Conference

LI Liberal Intergovernmentalism

MEP(s) Member(s) of the European Parliament

MS Member State(s)

NEPP National Environmental Policy Plan

NF Neofunctionalism

NGO(s) Non-Governmental Organization(s)

OLP Ordinary Legislative Procedure

QMV Qualified Majority Voting

SCP Sustainable Consumption and Production

SEA Single European Act

SFD Soil Framework Directive

TEU Treaty on European Union

TFEU Treaty on the Functioning of the European Union

UK United Kingdom

UN United Nations

# Chapter 1: Introduction

## Background

Climate change and environmental protection have become increasingly important issues, not only on the national or regional agenda, but also on the international agenda since it is agreed upon that everyone should contribute a fair share in providing a solution. As the economy and the environment have become intertwined, more attention is paid towards sustainable development and transnational cooperation. This is especially visible within the European Union (EU): one may note that the European Coal and Steel Community (ECSC) that initially started out to regulate a common market for natural resources and promote economic prosperity after World War II has evolved into the EU that is currently aiming to lead by example by taking action and recognizing the necessity of combatting climate change. This demonstrates the *sui generis* character or uniqueness of the EU with its supranational and intergovernmental features by representing 28 different Member States[[1]](#footnote-1). However, these developments may also result in the weakening of the national sovereignty of states (Dahl, 1994, p. 27).

The EU is internationally known to be a “leadiator” (leader and mediator) on climate change, but it experiences aversion internally (Oberthür & Groen, 2017, p. 1). Additionally, Member States generally agree that the EU is a platform to establish economic growth and environmental protection regulations on the continent, but they sometimes disagree on the means to achieve those ends. All institutions and Member States have their own preferences on how European integration should develop which sometimes may clash. Due to the principle of conferral, this is related to the principles of subsidiarity and proportionality[[2]](#footnote-2) that regulate the powers and competences of the EU.

The EU’s environmental protection policy that affects national policies takes shape in the Environment Action Programme (EAP). Since the entry into force of the Lisbon Treaty in 2009, the field of the environment has become a shared competence[[3]](#footnote-3). As a result, Member States and the EU institutions have to create legislation together. The Ordinary Legislative Procedure[[4]](#footnote-4) (OLP) allows the Council of Ministers and the European Parliament to have an equal say in the creation of new legislation as proposed by the European Commission. As a consequence, this does not only lead to negotiations in which stakeholders want to close the best possible deal, but also leads to the consideration of other and perhaps opposing standpoints when concluding an agreement. For example, proponents of a certain legislative act have to lower their ambitions when facing a bloc of opposition in order to create a consensus and to obtain all signatures.

Nonetheless, the EAP is one product of such negotiations and it leads questioning what the establishment of this agreement means for the development of environmental protection regulations at the EU and national levels. On 20 November 2013, the 7th EAP titled *Living well, within the limits of our planet*[[5]](#footnote-5) was adopted and it sets out the current environmental protection goals for the EU and its Member States. These include “to protect, conserve and enhance the Union’s natural capital, to turn the Union into a resource-efficient, green, and competitive low-carbon economy, [and] to safeguard the Union's citizens from environment-related pressures and risks to health and wellbeing” (European Commission, 2016a).

At first sight, this might seem progressive in comparison with other fields of competences of the EU such as the European Monetary Union (EMU) or the current issues with the refugee crisis. However, Hey (2005) concluded in the analysis of the first six EAPs concludes that there has been more “continuity than change” (p. 18). This means that the stakeholders have been able to successfully renew the Programmes regularly, but have failed to realize their ambitions or full potential at various costs. Therefore, this thesis seeks to understand how the most recent EAP came about and what the positions of the stakeholders were in order to comply with the creation of this legislature.

## Outline of the Research Puzzle and Research Question

Hey (2004) also argued that the field of the environment has experienced consistent integration since the 1970s. EU environmental protection thus knows a relative long history and has been receiving many impetuses to advance further. This is sustained by the data in Table1, a timeline of the seven EAPs is presented together with the major environmental protection developments and the concurrent events in the EU including Treaty adoptions and enlargements. However, one should acknowledge that positive integration is not a given as there have been disputes within the EU on the creation and implementation of environmental policies. These will be discussed hereafter.

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| Table 1  *EAP developments and concurrent EU events* (Data derived from Hey (2005) and Jordan & Adelle (2013)) | | |
| What EAP?  (period covered) | Main contributions towards environmental protection | Important events and developments in the EU |
| 1st EAP  (1973-1977) | Acknowledgement of interconnectedness of the environment and economic development and a European response to the ecological damages such as acid rain and *Waldsterben.* | The 1970s were known as the environmental decade: Green parties were founded across Europe; United Kingdom, Ireland and Denmark joined the European Economic Community (EEC) in 1973. |
| 2nd EAP  (1977-1981) | Extending the scope of 1st EAP with five guiding principles revolving around nature protection; early measures for the EEC-wide harmonization in other policy areas. | Greece joined the EEC in 1981. |
| 3rd EAP  (1982-1987) | This EAP adopted an emission-oriented approach[[6]](#footnote-6) and the “sustainable use of natural resources” became a guiding principle; environmental policy integration (EPI)[[7]](#footnote-7) article was added with the SEA. | Spain and Portugal joined the EEC in 1986; Single European Act (SEA) amended the Treaty of Rome was signed in 1986 and entered into force in 1987. The main goal was to establish the Single Market. |
| 4th EAP  (1987-1992) | Consolidation and harmonization of environmental interests in other policy areas due to the environmental protection chapter in the SEA. | Fall of the Berlin Wall in 1989; unification of Germany in 1990. |
| 5th EAP  (1992-1999) | Precautionary principle[[8]](#footnote-8) to environmental protection was added by the Maastricht Treaty; 5th EAP perceived as a failure due to the Member States’ resistance towards the Commission. As a response, the Commission refined the objectives of the 5th EAP after the first and second progress reports (Hey, 2004, p. 24). | Single Market established in 1993; Maastricht Treaty signed in 1991, effective in 1993; EEC renamed European Community (EC); Austria, Finland and Sweden joined the EC in 1995; Amsterdam Treaty signed in 1997, effective in 1999. |
| 6th EAP  (2002-2012) | Cautious approach due to international developments and (expected) enlargement episodes. Introduction of the Thematic Strategies. | Nice Treaty signed in 2000, effective in 2003; Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia joined the EC in 2004; France and the Netherlands rejected the Constitutional Treaty[[9]](#footnote-9) in a referendum in 2005; Bulgaria and Romania joined the EC in 2007; Lisbon Treaty establishing the EU signed in 1007, effective in 2009; Eurozone crisis in 2009. |
| 7th EAP  (2013-2020) | Directed at achieving the Europe 2020 goals (growth strategy); long-term vision for 2050. | Croatia joined EU in 2013. |

There are a few things worth mentioning after the compilation of this list of events in Table 1. First, it can be argued that the EAPs are routinely renewed every five to ten years, because it intends to respond to new knowledge or developments in the field. In addition, as the EC became attractive for applicant Member States to benefit from the free movement of goods, European economic integration also encouraged more and newer environmental policies. Especially because it was important to establish standards that were able to compete with the leading Japanese and US economies in the 1970s-80s (Weale & Williams, 2007, p. 47). Second, the Commission is seen to be overly positive and progressive towards integration in the field of the environment which sometimes leads to resistance from the Member States. This is especially visible in the implementation of the 5th and 6th EAP and the three year hiatus between 1999 and 2002 which will be addressed in the next chapter.

Third, there is an enlargement episode concurrently with almost every new EAP. Jehlička and Tickle (2004) argued that enlargement has adverse effects on the progression of EU environmental policy. Candidate Member States should conform to the Copenhagen criteria, which requires them to adopt, implement and enforce the *acquis communautaire*. The *acquis* embodies the law and regulations of the EU and consists of 31 chapters including one on the environment. After admittance to the EU, it is claimed that central Eastern European (CEE) states may block the adoption of new legislation or negotiate lower standards (Jehlička and Tickle, 2004, p. 77-79).

Fourth, as there are more Member States, there is an increasing number of different views: reaching a compromise becomes more difficult with more parties. In other words, it is interesting to discover how all stakeholders have presented their position in the negotiations and how an agreement was reached in 2013 with the adoption of the 7th EAP. More importantly, the Netherlands is one of those stakeholders and it is one of the founders of the EU. The Dutch have been progressive in environmental regulations in the past, because they are known as one of the Green Sextet Member States together with Denmark, Germany, Austria, Finland and Sweden (Wurzel, 2013, p. 90). They have been able to push forward stricter standards against other Member States. Therefore, it is valuable to research its role in the 7th EAP negotiations in order to find out whether or not the Dutch maintained their position as an environmental progressive country by leading the rest of the EU and representing the Green Sextet.

Furthermore, European integration is also considered to be a “hot topic”, because there are voices that either reject or support this phenomenon. Euroscepticism is on the rise and it is difficult for the European Commission to hold its position as a legitimate institution. The Commission and its staff have to make important political decisions, but are considered to be “non-elected professionals with unclear lines of accountability” (Hooghe, 2012, p. 87). It could thus be argued that the Commission is no longer the “engine” towards an “ever closer union” (Lodge & Sarikakis, 2013, p. 177). In addition, the 7th EAP was also concluded in the aftermath of the economic crisis which also makes it questionable how such an agreement came about; or to find out whether or not the EAP was affected by it and possibly other (inter)national developments. Therefore, the following research question can be derived:

*How did the 7th European Environment Action Programme come about and to what extent was it able to converge the (national) interests of the Netherlands and the European Commission?*

With this research question, this thesis aims to stress the need to understand the creation and regulation of environmental protection on the EU level that has to be implemented nationally. As it is mentioned before, the economy and the environment have become intertwined which makes the EU (more) designated to promote sustainable production and enhance living standards in the region. Therefore, it is also important to review the tasks of the EU and the ideas of furthering European integration. In addition, the thesis also seeks to make an assessment of the dynamics between the Commission and the Netherlands as a Member State. Does integration in the field of the environment live up to the expectations of the Commission as being the engine or follow the demands of the Member States as represented by the Netherlands? This is observable through their cooperation in the OLP of creating the 7th EAP. Furthermore, it should be stressed that this thesis is not looking at the technical specifications of environmental protection as such, but is rather investigating the policy making procedure prior to the implementation process.

## Methods, Data and Case Selection

In order to answer the research question, this thesis adopts the method of process tracing (Beach & Pedersen, 2013). Process tracing is usually employed in order to uncover the black box of the causal mechanism. In this case, the black box is based on the causal mechanism that made the stakeholders agree on the creation and adoption of the 7th EAP. This thesis has opted for a combination of “theory-testing” and “explaining-outcome” process tracing, because it seeks to understand to what extent (the hypotheses of) the grand theories of neofunctionalism and liberal intergovernmentalism are able to explain European integration in the field of environmental protection. Additionally, it aims to find out how integration is developing in this field.

Theory-testing process tracing allows the researcher to analyze whether or not a certain hypothesis of a causal mechanism is visible in the evidence (Beach & Pedersen, 2013, p. 3). Explaining-outcome process tracing aims to find out how a particular outcome has come about. A combination of both methods allows this research to explain the coming about of the 7th EAP while account for the reasons why and how the stakeholders have reached an agreement and to what extent their mandate is visible in the final product. In the following section, the thesis will elaborate on the hypotheses.

The data that is used for the research comes from EU websites and databases such as Directorate-General Environment (Commission), General Secretariat of the Council (Council of Ministers), Legislative Observatory (European Parliament). Other reports from NGOs and research institutes such as the Institute for European Environmental Policy (IEEP), concerning the 7th EAP will also be included. In addition, news articles from EU oriented websites such as EUobserver and EurActiv will provide reference points in order to help reconstruct the timeline of the current EAP. The position from the Netherlands can be found in relevant government documents, i.e. *Kamerbrieven* and *geannoteerde agenda’s*. Background information will be derived from secondary literature that have already highlighted the importance of environmental policies in the EU form the basis of understanding the latest EAP. In addition to these data sources, informal background interviews with representatives of the Commission and the Dutch Ministry and an academic are conducted in order to contribute for understanding and clarification.

This thesis seeks to compare the position of the representatives of the Netherlands in the Council of Ministers in contrast to the Commission. This institution is known to be the policy initiator and has optimistic ideas for the future of the EU. The national governments can promote their interests via their representatives in the Council of Ministers which is also known as the Council of the European Union. The Council meets in different formations including one for the environment which requires all national ministers with an environment portfolio to get together. EU legislation receives input from the Member States, but has effects on national level which means that the EU has a “reciprocal, two-level character” (Liefferink & Andersen, 2005, p. 50). Therefore, another research aim is identified by finding out whether or not integration is effective in the field of the environment.

This thesis has decided to analyze and compare the positions and preferences of a Member State as embodied by the Netherlands, because they have been known to be more progressive in pursuing stricter environmental standards in comparison to their Southern or Mediterranean and Central Eastern European (CEE) counterparts. Furthermore, it is also important to distinguish between Western, Southern and CEE Member States, because there is a difference between the moments of accession. Some of the Western states joined the EU earlier which means they have had an easier time to harmonize their interests and policies in contrast to the CEE countries who have only become a member since 2003. The Southern states have had a longer period of adaptability to the Western standard, but initially opposed such environmental standards. However, it can also be concluded that the power of the Green Sextet has decreased due to the enlargement of the EU which makes the analyzing the Netherlands as a representative thereof more valuable. These are a few of the reasons why the Netherlands has been chosen, the thesis will further develop this argument in the next chapters.

## Theories and Hypotheses

This thesis seeks to test the theories of neofunctionalism (NF) and liberal intergovernmentalism (LI) in order to answer the research question posed above. Those are known as the two grand theories in European integration that assign different roles to the Member States and institutions.

The theory of NF is created by Ernst Haas (1958) and Leon Lindberg (1963). Neofunctionalists attach much value to the independent force of supranational organizations and the development of common ideas and norms (Niemann & Schmitter, 2009, p. 46). Their main argument revolves around the notion that integration results from four types of spillover: functional, political, cultivated and induced or geographical spillover. The first two are the most well-known. Functional spillover means that integration in one sector e.g. economy leads to integration others such as the environment due to “interconnectedness” of those sectors (Nugent, 2010, p. 431). Political spillover assumes that due to economic integration, national governments need a supranational body to take care of and to foster such developments. In other words, NF is generally more positive about the powers assigned to the supranational elite and sees European integration as an incremental process. This is why NF also considers the gains for Member States to be a positive-sum game (Niemann & Schmitter, 2009, p. 48).

In contrast, LI has its roots in Stanley Hoffmann’s intergovernmentalism, but it has been updated by Andrew Moravcsik. This theory assumes that states as the main actors in the EU behave rationally in order to achieve their goals given their capabilities. Furthermore, national governments have powers to determine the speed and direction of European integration (Nugent, 2010, p. 433). According to them, European integration is characterized by a “sequence of irregular big bangs” (Moravcsik, 1998, p. 2). In other words, LI argues that state preferences are compelled “by issue-specific preference functions about how to manage globalization, not linkage to general policy concerns”, which goes against the spillover concepts of NF (Moravcsik & Schimmelfennig, 2009, p. 70).

In sum, these two theories provide the main framework of this research. They both have a different, but not a contradictory notion of how actors engage in European integration. Therefore, this thesis does not aim to reject either theory, but seeks to find out to what extent the assumptions of each theory are visible in the coming about of the 7th EAP. A detailed description and assessment of the strengths and weaknesses of these two theories will be provided in the following chapter. Consequently, the following hypotheses are derived from the theories and literature review and will be tested in this research. The first two hypotheses are related to the mandate of each stakeholder in the negotiations:

H1: *The Netherlands are, as a representative of the Green Sextet Member States, within rational constraints, the driving forces of outlining the 7th EAP, because they can gain from EU-wide environmental protection policies.*

H2: *Due to spillovers, the European Commission is, as a representative of the EU, the driving force of outlining the 7th EAP, because it is benefiting their position and legitimacy.*

The last two hypotheses entail the significance of the EAPs and the impact of European integration within environmental policies:

H3: *The EAPs are seen as a “snapshot” of European integration which means that the outcome of the 7th EAP mainly reflects the preferences of the Green Sextet led by the Netherlands.*

H4: *The EAPs are seen as a routinely renewed piece of legislation which is a means of delegating authority to the supranational elite and the confirmation of the European integration process. Additionally, there is incremental progress visible in the 7th EAP with respect to the previous EAPs.*

## Main Findings

This thesis concludes that the analysis of the coming about of the 7th EAP shows interesting empirical evidence. The 7th EAP intends to cover the interests of both the Netherlands and the Commission as a means to collectively protect the environment. However, the Netherlands, as one of the Green Sextet Member States which used to be proactive in the previous EAPs, now remains to appear reluctant towards mandatory and legally binding criteria. They wished to retain their own and already existing national frameworks. This can be related to the principles of subsidiarity and proportionality. These principles have been decisive for the outcome, since they regulate the powers of the EU. For some Member States, it was preferred to have EU-wide legislation, but for others, including the Netherlands, this was deemed to exceed the principles. For instance, the soil policies have been a crucial issue in the informal trialogues as other Member States, the Commission and the EP wished to see this take shape in a legally binding framework. However, the Netherlands, in a blocking minority, was able to weaken this formulation which can be interpreted as one of the strengths of the Member States.

Additionally, the Netherlands has been able to largely maintain its mandate in the negotiations while looking to create a level playing field and a better integration and implementation of environmental policies. However, the Commission gained support from the EP whose amendments were deemed to be more ambitious than the text in the original Proposal. The issue and article on common responsibility (art. 3 of the Decision) also highlights the discussion on the rights of the Commission to create legislation and again the principles of subsidiarity and proportionality.

Summing up, the results in this thesis are able to provide a contribution to understanding EU environmental policy-making and the dynamics between Member States and the institutions in this area of competence.

## Structure of the Thesis

This thesis is structured as follows: first, the next chapter will identify and present the debates about the EAPs and environmental policies in the EU in the literature which is complemented by the theoretical framework in which the grand theories of liberal intergovernmentalism and neofunctionalism are explained. From this, the hypotheses are derived and will be explained in further detail. Second, the following chapter contains the review of methodology, research design and data collection methods. This chapter also includes an examination of the priorities of stakeholders in the process of the creation of the 7th EAP. Third, the empirical analysis and the evaluation of the hypotheses are presented. Fourth, the last chapter is dedicated to the conclusion which contains the answer to the research question, the shortcomings and a reflection on this thesis.

# Chapter 2: Literature Review and Theoretical Framework



## Literature Review

This subchapter addresses the main debates in the literature within the field of EU environmental policies which revolves around the following three elements. First, this chapter contains a section that provides historical background and critical reflection on the previous EAPs in order to set the stage to address the 7th EAP. Second, this section outlines the debate that the EU and Member States have to choose between the economy and the environment. It is known that stakeholders need to make an assessment on how much they value the workings of the economy in comparison with the need to protect the environment due to climate change and especially when natural resources become scarce. This section also addresses the wishes of the so-called environmental lagging and progressive Member States. Third, given that those stakeholders are also struggling with each other, the last part is dedicated to examine the dynamics within this multi-level governance. Fourth, a summary is provided and closes the subchapter which is then followed by the discussion of the theoretical framework.

### Previous Environment Action Programmes and Environmental Protection in the EU

Environmental policies in the EU are widely discussed by several authors including Jordan (2005 and 2013), Liefferink (2005 and 2014), Weale (1992 and 2005) and Wurzel (2013). The EAPs are of particular importance as they outline the ambitions of the EU for a period of time. This allows for the adoption of more substantive legislative documents in order to meet those goals laid down in the Programmes. The EAPs started out in 1973, but the main focus point of this chapter lies on setting the stage with the 5th EAP and further. Before the 5th EAP, environmental policy was rationalized by economic reasons which were argued to legitimize the demands of the Commission and as an attempt to strengthen the policy field. However, this changed as the period from 5th EAP[[10]](#footnote-10) (1992-1999) onwards is characterized by two opposing trends. On the one hand, there were substantive improvements in environmental protection regulations as demonstrated in the SEA, the Maastricht and Amsterdam Treaties. The 5th EAP, titled *Towards Sustainability*, was presented by the Commission that stressed that the integration of other policy sectors as “a fundamental pre-requisite for sustainable development” (Wilkinson, 1997, p. 153).

On the other hand, Knill and Liefferink (2013) noted that in reality EU environmental protection had “lost momentum on the European agenda as opposed to other policy areas” (p. 29). It is argued that environmental protection in the beginning of 1990s did not receive the same priority status as one decade ago. This was the result of the EU changing its approach on environmental regulations. Rittberger and Richardson (2001) explained that the Commission changed its policy style from a “traditional regulatory style” to a less authoritarian style in the 5th EAP that allowed for more flexibility among Member States to comply with environmental regulations. It was directed at more cooperation between Member States and market behavior rather than an imposition of rules “from above”. As a consequence, the Commission lost its role as a prominent pusher in environmental protection while “shared responsibility” became the guiding principle. In other words, it can be argued that the 5th EAP has become a turning point in EU environmental policies.

Rittberger and Richardson (2001) also tested this policy shift by conducting a computerized content analysis. This means that they had only been able to assess this on a declaratory level and therefore lacked the insider information. Nevertheless, they concluded that there is a partial mismatch between those and the operational claims or the actual realizations of those policy ideas by the Commission. Lenschow (1997) confirmed the problematic execution of the great ambitions by the Commission. This author argued that there are significant differences between the execution of Commission plans in integrating different policy areas. For example, the principle of environmental policy integration (EPI) became more visible in the European Regional Development Fund in contrast to the Cohesion Fund (p. 123).

More importantly, the creation and direction of the 5th EAP and the policy shift of the Commission were influenced by the Dutch in the Council of the European Union. The Netherlands held the Presidency of the Council in 1991 from July until December. The Dutch had their own ideas of environmental protection that was employed domestically which was called the National Environmental Policy Plan (NEPP). This constituted “a full integration of environmental considerations into other policy areas and close co-operation with target groups in society, such as industry and consumers” (Liefferink & Van der Zouwen, 2004, p. 128). This consensus-based method of environmental policy making is what became visible in the 5th EAP: a bottom-up approach was adopted in order to facilitate the discussion of the needs and preferences of the market.

Even though the Dutch policy method of including market demands into regulatory policies was praised domestically and internationally since it was also adopted by other national governments, this did not work out in a multilateral context as in the EU since the 5th EAP was seen as a failure for the Commission (Hey, 2005, p. 24). The position and legitimacy of the Commission were weakened while the Member States and the industries gained more prominence as they were included and consulted more often. In sum, The Dutch policy style in the EU backfired for the Commission. For example, the Commission tried to promote their high ambitions in order to achieve the goals of the 5th Programme by introducing the energy/CO2 tax, yet it stumbled upon resistance from the Member States and the industries. As a result, it had to give up the proposal, because at the time it was argued that it was a decision taken by an unelected executive which undermined the national sovereignty (Barnes, 2011, p. 46).

In addition, in an interim report, Gouldson (1995) argued it must be acknowledged that Member States’ resistance could be explained by the effects of the economy. Due to the recession in the late 1980s and the aftermath in the beginning of the 1990s, industries and Member States were reluctant towards environmental protection and it was argued that such regulations were “obstacles to growth”, because it was expensive to meet such standards (p. 28). This is one of the potential answers to the question why not all Member States were preparing to streamline national environmental policies under the 5th EAP. Even the European Commission (2000) recognized this view in its *Global Assessment* report:

Although the fifth [environment action] programme raised awareness of the need for stakeholders, citizens and decision-makers in other sectors to actively pursue environmental objectives, less progress has been made overall in changing economic and societal trends which are harmful to the environment. The commitment by other sectors and by Member States to the programme is partial, and the patterns of production and consumption in our countries prevent us from achieving a clean and safe environment and protecting the world’s natural resources. The outlook is that new environmental standards will not keep pace with the growing demand. (p. 7)

The Commission made up the balance by learning from the mistakes in the 5th EAP. Even though there was a three-year break between the 5th and the 6th EAP, it should be noted that EU environmental protection nevertheless experienced a revival since more detailed pieces of legislation were adopted during that time. Those included the completion, review or modernization of the then-existing legislation on air quality, emission control and fuel standards (Hey, 2005, p. 26). However, one should be critical about this since every “improvement” can be presented as an “improvement”. Consequently, it was suggested that the Commission should rather look at the actual performance and reception of such improvements.

The 6th EAP[[11]](#footnote-11) (2002-2012), named *Environment 2010: Our Future, Our Choice*,was intended to fix the shortcomings of its predecessor. It was also the first EAP that became legally binding upon the Member States, because it was adopted through the co-decision procedure (Kläne & Albrecht, 2006, p. 21). The Council and the EP were participating in creating this piece of legislation. The opinions from the institutions, Member States, candidate countries, the industry, environmental organizations, trade unions and more were taken into consideration before drafting the 6th EAP (European Commission, 2015a). While the first five EAPs were more “political statements of intent” of the Commission as a policy pusher, the 6th EAP has been a product of the co-decision powers of the European Parliament and the Council of Ministers (Withana et al., 2010, p. 4). This contributed to the political and judicial legitimacy of this legislature. Additionally, it contained “a more equal balance between voluntary and non-voluntary instruments” when it abandoned the Dutch style of environmental policy making (Liefferink & Van der Zouwen, 2004, p. 130; p. 136).

The 6th Programme distinguished itself from its precursor by having a cautious approach. It did no longer share the ambitious goals, but aimed to establish policy effectiveness by addressing the four priority areas which made up the core of environmental protection instead: climate change, nature and biodiversity, environment and health, and natural resources and waste (European Commission, 2015b). In the third year of the 6th EAP, the concept of Thematic Strategies (the identification of the key issues of air, waste prevention and recycling, marine environment, soil, pesticides, natural resources and urban environment) was introduced in order to give ownership to the experts in those particular fields. This was seen as a relative improvement, since the 5th EAP failed, amongst other things, because it lacked such a division of labor directed at tackling those key issues (Withana et al., 2010, p. 8).

Even though the Thematic Strategies were a step in the right direction with regards to having substantial guidelines, the implementation however remained fuzzy. The legislation of the 6th EAP allowed to adopt measures for the Thematic Strategies under the co-decision procedure, but the Commission preferred to keep its power to itself which resulted in non-binding Communications instead (Withana et al., 2010, p. 9). In other words, when the Commission did not include the other institutions to create binding Directives and Regulations, it resulted those Communications which gave the Member States the freedom to read and implement Communications discretely and in a way that suited their national interests. This development could be attributed to the weakening of their ambitions after the 5th EAP. This went hand in hand with the following point of criticism which is that it did not mention any specific targets or timetables. Therefore, the European Environmental Bureau (EEB) found the 6th EAP to be “unambitious”, because it showed that there was a “political downgrading” of environmental policy by the use of soft instruments (EurActiv, 2006).

In another report on the performance of the 6th EAP, Homeyer et al. (2011) argued that there is much ambiguity with the terminology in the Articles. They claimed that the provisions (especially Article 2-4) of the 6th EAP remain unclear due to the interchangeable use of generic and specific wordings and requirements being not explicit enough which may result in different interpretations by Member States (p. 13). However, the authors concluded that the “achievements” of the 6th EAP should be seen in light with regards to the international stage: the economic crisis and the overarching need of EU28 to become economically stable again were tough on the completion of the Programme’s objectives (Homeyer et al., 2011, p. 243). Therefore, it should be acknowledged that the EU has been able to create a framework which can be improved upon while aiming to enhance the legitimacy of the EU in the field of the environment.

In addition, another positive note towards the EAPs is made by Krämer (2006). This author argued that the EAPs revolve around a sense of flexibility; that is that the EAPs have an open space for relatively new Member States to adjust to new goals and that progress reports are made in order to reconsider the aims created before (p. 136). After the adoption of the 6th EAP in 2002, many things have changed within the EU: the treaties of Nice and Lisbon were adopted and twelve (mainly Eastern European) countries were admitted.

In conclusion, this reflection on 5th and 6th EAP prove that environmental protection regulations in the EU so far is not functioning ideally. The EU has been slowly improving the policy field, but it is still struggling to create unity in order to overcome the obstacles to combat climate change. This thesis seeks to understand how the limitations of the 5th and 6th EAP have affected the creation of the 7th EAP and whether or not it has been able to overcome the aforementioned difficulties: the demands of the industries and Member States and the need to create of effective environmental policies. The next section will elaborate on those constraints and interaction of (f)actors that are influencing the environmental policies of the EU.

### Choosing Between the Economy or the Environment

As the previous section has pointed out, there is a serious gap between the Commission’s aims and the actual realization of the environmental protection goals. The EU was initially created in order to build economic growth within the region, but it is claimed that they hinder the workings of the Single Market due to the imposition of environmental regulations upon Member States and companies. Generally, “greening” the production process brings along higher production costs. This is deemed disadvantageous for countries who have not been progressive in environmental policies (yet) and should invest comparatively more in order to keep up with the higher standards in contrast to those who have already been doing so and are profiting from their already “green” industries (Babool & Reed, 2005, p. 2). This was the main debate in the 1990s, but is it still relevant with the expanded EU and economic developments in the past decade? Is the economy hindering environmental protection or are they considered mutually supportive? This section aims at finding out providing an outline of the debate between prioritizing the economy or the environment in policy-making at the EU level and whether or not this has been influencing the effectiveness of the EAPs.

The EU claimed that the economy is dependent on the environment and vice versa due to the scarcity of natural resources that affects the workings of the economy (European Commission, 2016c). This can be interpreted that there is no trade-off according to the Commission. The revival in EU environmental policies in the 2000s mentioned previously is supported with the following arguments that result from EU-wide environmental policies: long-term financial savings, increased economic competitiveness, improved energy security, increased political independence from unstable but oil-rich countries and health benefits (Dimitrov, 2014, p. 266). In a report, the European Commission (2007) also pointed out at the creation of new jobs in the eco-industry, which concerns air pollution control, waste water treatment and solid waste treatment (p. 5). There have been 3.4 million Europeans working in the eco-industry in comparison with the car-manufacturing in which only 2.7 million Europeans have been employed. It is remarkable to see that most of the full-time jobs were fulfilled in Germany while Spain and Italy seen as relative laggards complete the top three (Rademaekers et al., 2012, p. 31).

Moreover, the EU has been imposing stricter environmental standards on goods that enter the Single Market which demonstrates the interdependency of the economy and the environment. However, Vogel (1997) did not believe in such trade agreements. This author argued that even though the WTO and the Single Market set up a tariff barrier free market, the imposition of such environmental regulations is also serving as a similar barrier (p. 3). This demonstrates the ambiguity of such regulations: they serve a higher goal namely to protect the environment but yet seem to hinder the intended working of the Market.

However, it can be argued that this trade-off (stricter environmental standards vs. access to Internal Market) does not necessarily discourage applying to become a member of the EU. The EU expanded from six to 28 Member States in several enlargement episodes. Selin and VanDeveer (2015) claimed that in the beginning of EU enlargement, environmental protection was not a hard precondition when the UK, Ireland and Denmark joined. It became a tougher requirement when the Mediterranean countries (Greece in 1981 and Spain and Portugal in 1986) accessed which resulted in a North/South division in Europe. Those countries preferred to focus on economic growth created through increased investment and trade rather than high environmental standards. It was finally agreed upon to financially support those countries in order to meet those standards. However, when Austria, Finland and Sweden joined in 1995, more and stricter environmental regulations were pushed forward, stumbling upon resistance by the laggards e.g. the Southern and CEE countries. They argued that the richer and Northern countries had a comparative advantage, because the rules were expensive for them to implement (Selin & Vandeveer, 2015, p. 323). Borzel (2000) downplayed the argument that the laggards pose an obstacle to communal environmental regulations while Jehlička and Tickle (2004) argued that they actually do slow down progressive policies.

Nevertheless, the EU has become a leading example in global environmental governance and exporting the win-win mindset to the rest of the world (Vogler & Stephan, 2007, p. 393). China, known as one of the biggest polluters in the world, has been aiming to create a low carbon economy by 2020 by lowering its dependency of fossil fuel and promoting renewable energy sources (Tianjie, 2017). The Paris Agreement signed in 2015 is also one successful product of the interaction between promoting economic interests and environmental protection. It should not be argued that environmental policies have always been fruitful with the EU in charge. For example, in 2009, a global agreement on combatting climate change failed to be concluded in Copenhagen, Denmark.

In addition, the EU experienced a large economic shock due to the Eurozone crisis of 2008. Delreux and Happaerts (2016) argued that environmental protection in the EU was not directly affected by it, but do acknowledge the indirect consequences. First, a déjà-vu of negative environmentalism in the 1990s occurred: political attention and importance towards environmental policy declined as repairing the economy became the first priority. Second, a contradictory but beneficial result was that the framing and discourse of environmental policy improved: they were eventually framed as a “contribution to economic growth” which became part of the remedy to the crisis (p. 35-36).

In conclusion, the environment as a policy area gained more prominence in the EU. Other countries are following the lead as the EU also has been exporting its leadership to the rest of the world. There are different discourses in explaining how environmental protection policies in the EU have become a guiding principle in its workings. Those regulations and multilateral agreements intend to bring the EU and the world closer to a greener community, but it is still unclear whether or not this tendency is persevering. In other words, can we identify an advancement and/or deepening of regional environmental policies with the creation of the 7th EAP in which all stakeholders have an equal say in how those policies should take form? Therefore, the goal of this thesis is also to (dis)confirm this notion and find out reasons for why (not) stakeholders can equally participate in policy-making.

### Dynamics Between the EU and Member States

The EU is a forum where Member States create policies and they have delegated or conferred national decision-making powers to this institution. This does not only bring advantages as described above, but also disadvantages since national governments each have their own idea how European integration should develop. The principles of subsidiarity and proportionality[[12]](#footnote-12) are known as the guidelines towards the limits of the powers of the EU. This subchapter aims to fit the research into the debates on the dynamics between the Member States and the EU exemplified in environmental protection policies.

Within the EU, the Commission should not favor any position and it has the exclusive right to initiate legislation. In other words, it known as the “internal motor of European integration” (Schön-Quinlivan, 2013, p. 100). In other words, the Commission is arguably active in upgrading the common interests rather than pushing for specific interests by particular Member States. This raises the question whether or not the Commission is still able to achieve its goal with a “one size fits all” approach to environmental protection. Even though the Commission is able to propose “radical initiatives for internal climate change policy” (Barnes, 2011, p. 44), it is constrained by and dependent upon the Council of Ministers and the European Parliament (Weale, 2005, p. 345).

Without approval or endorsement from the other institutions, it exposes the weakness of the Commission as exemplified with the CO2/energy tax affair. It does however not mean that the EP and the Council will discredit every Commission proposal, but it is a symbolic reference that it is one collective statement representing the three institutions and thus the EU as a whole. Nevertheless, there is a trend claiming that the Commission’s right to act is more or less accepted due to its ambitions and established position. However, assessing whether or not such interventions are deemed to be fully legitimate is another question and refers to the principles of proportionality and subsidiarity (Jordan & Adelle, 2013, p. 377).

The decisions made in Brussels thus affect national governments. Dahl (1994) argued that national governments and its citizens were presented a “fundamental democratic dilemma” with the Maastricht Treaty: either preserve their national authority which was more easily influenceable or delegate this authority to an elite that allows for the creation of legislation that was able to deal more effectively with matters beyond the national capacity (p. 23-24). As the Member States have chosen for the latter, how do national governments’ policies respond to EU legislation? Liefferink, Jörgens and Lenshow (2014) pointed out that within the EU, there is a convergence mechanism called international harmonization. This occurs when actors agree with legally binding rules and regulations.

There are four factors that are able to influence the effectiveness of those rules. First, the most obvious factor is that it only applies for states that have agreed to the terms which is certainly the case with a shared competence. Second, the scope (ranging from very general guidelines to specific numbers) of the policy is also weighing in on the impact of international harmonization. This has already been noted by several authors reviewing the 5th and 6th EAP mentioned in Chapter 2.1.1. Third, compliance is also not guaranteed: Member States may have signed the legislature, but it does not mean that they will immediately implement the new regulations. Fourth, the manner and background in which such policies were created are also determining in international harmonization (Liefferink, Jörgens & Lenshow, 2014, p. 12-13). Following this argument, the settings in which the 7th EAP was created should be thoroughly assessed.

However, does this mean that all Member States agree on the procedure how the EAP was created? This is disputable since there are many Eurosceptic tendencies visible in the continent. The Eurosceptics argue that Brussels has too much power in comparison to the Member States and want to create rules that infringe upon their national sovereignty. Thus, to what extent do Member States actually want to harmonize their rules, regulations and interests? The answer depends on the following: there is not only a trade-off between the economy and the environment, but also one between Commission-led harmonization and national discretion of policy-making. The advancement of EU environmental policy is thus also constrained by discussions on European integration. This perhaps also explains why Jordan and Adelle (2013) claimed that there is no commitment to a “long-term convergence towards a standard ‘EU-inspired’ model of [environmental] policy” (p. 373).

To sum up, a part of the literature uses the EU and the Commission often interchangeably as being leaders in the field of environmental protection. This thesis seeks to improve on the current literature by differentiating between the ambitions and the approach of the Commission, and the Council as represented by the Netherlands. Furthermore, it investigates the dynamics of those stakeholders in discovering who is guiding who in the policy-making process. This can be researched by comparing and contrasting the explanatory powers of the European integration theories which will be examined in the next section.

When taking a closer look at the achievements in environmental policies, they often do not meet the high ambitions set by the Commission. However, this can also be attributed to a negotiation strategy and having high bargaining power. Also, the literature claims that the EU has to choose between prioritizing the economy or the environment, but the Commission claims that those go hand in hand. Therefore, another research aim is to find out whether or not this trend is maintained with the creation of the 7th EAP with more Member States.

### Summary and Contribution of this Research to the Literature

With this section, the literature review is concluded. The above subchapters have outlined the large debates within the literature of EU environmental policies. They have also touched upon the contributions that this research aims to give to the current state of the art. The authors who have researched this topic so far have contributed largely in understanding the field. There are disagreements, for example, on the role of the laggards in the field of the environment. In addition, the role of the Netherlands in the EAPs have been crucial for the Commission to find out what is the most appropriate way to regulate environmental policies. Therefore, the negotiations of the 7th EAP will provide evidence to what extent the Commission managed to successfully do so.

Nevertheless, the debates date from the 6th EAP and earlier stress the importance to research and analyze the *current* state of environmental policies in the EU with developments such as new Member States and the geopolitical and economic situation. In addition, the identified trade-offs (environment vs. economy and Commission-led harmonization vs. national discretion) are not properly researched yet which this thesis aims to do so.

In other words, this thesis aims to fill the gap in the literature which is the analysis of the policy-making process of the 7th EAP within the largest EU setting so far. Most important is the relation between and the contribution of the Netherlands and the Commission on the recent EAP. It is a given that the 5th EAP has been a turning point for the Programmes, and this research intends to investigate how this relation has developed. This is done with regards to the grand theories of European integration which will be explained in the next section.

## Theoretical Framework

This subchapter is aimed at addressing the main theories guiding this thesis namely liberal intergovernmentalism and neofunctionalism. These are known as the grand theories, because they do not only explain the outcomes of interactions between Member States and the EU, but they also explain the integration process as a whole. European integration knows a long history and theories are created in order to explain the “process through which supranational governance – the competence of the European Community to make binding rules in any given policy domain – has developed” (Stone Sweet & Sandholtz, 1998, p. 1). Therefore, this subchapter is dedicated to explain the main tenets, strengths and weaknesses of the theories. Additionally, the link between the theories and environmental policies is elaborated upon and is subsequently followed by the formulation of the hypotheses.

### Liberal Intergovernmentalism

#### Main Features

Liberal intergovernmentalism (LI) is a grand theory that takes the state as its primary actor and claims that the speed and direction of European integration is determined by preferences of the Member States. LI is a 1990s revival of traditional intergovernmentalism that is originally dating from the 1960s. LI distinguishes itself from its predecessor by being able to adapt to relatively new events in EU history. Traditional intergovernmentalism failed to explain why contradictory events, the signing of the SEA and Maastricht Treaty which were supranational of character, were successful. Therefore, Andrew Moravcsik updated traditional intergovernmentalism and defined LI as follows:

EU integration can best be understood as a series of rational choices made by national leaders. These choices responded to constraints and opportunities stemming from the economic interests of powerful domestic constituents, the relative power of each state in the international system, and the role of institutions in bolstering the credibility of interstate commitments. (p. 18)

This definition will be broken down in several parts in order to structure this theory to the scope of this thesis. Firstly, Moravcsik spoke about a “series of rational choices made by national leaders” (p. 18). This means that Member States are sovereign countries and are the main actors in an anarchic state system by weighing off the costs and benefits of furthering European integration or integrating in a policy area (Moravcsik & Schimmelfennig, 2009, p. 68). Secondly, the “constraints and opportunities” of economic interests and determine the motives of Member States to push forward or to slow down European integration. This is also known as the liberal theory of national preference formation (Nugent, 2010, p. 433).

In some cases, European integration can be fruitful, but in others it is not deemed to be beneficial. In the former example, EU28’s commitment to common environmental protection regulations provides a healthier and sustainable living space which is beneficial to all Members and thus a reason for collective decision-making. The latter claim means that States may argue that there is no need for advancing integration in the field of the environment, because it is costly to implement such stringent regulations. It may as well give a competitive advantage to other Member States; in the field of environmental policies, this is given to the Green Sextet.

Third, the relative power of the state allows for substantive bargains. The bargaining power of Member States comes from their competitive advantage in certain policy areas. That is in the case of environmental policies dependent upon the progressive Green Sextet. However, the laggards can pose a bloc against them by negotiating lower standards. Therefore, according to the liberal intergovernmentalists, it is difficult for preferences to converge; they rather aim for “suboptimal outcomes” (Moravcsik & Schimmelfennig, 2009, p. 71).

Fourth, the institutions are only assumed to create defined relations between states. In an anarchic system where everything is unpredictable, states will be defining their preferences before going into negotiations. The negotiations would result in the creation of institutions that will help structuring the relationship and future of the states. Thus, the creation of an intergovernmental organization also reduces the uncertainty of other states (Moravcsik & Schimmelfennig, 2009, p. 69).

These four tenets can be seen as the guiding principles of LI on how it views the stage at the international level. When we take a look at what is happening at the state level, LI stipulates that state preferences are determined by problems that arise due to globalization. The states would rather cooperate because it is in their interest and it is relatively cheaper than pursuing things on their own. This is specifically the case in the EU where states are mainly motivated by economic interests (p. 70). This assumption is also visible in the International Relations theory of Neorealism (Dunne & Schmidt, 2014, p. 106).

#### Criticisms

Moravcsik and LI have also received criticism. First, the most remarkable critique is that LI does not seem to hold in empirical examples. It is argued that Moravcsik is too selective in choosing his cases where LI seems to be the most applicable (Nugent, 2010, p. 433). Forster (1998) conducted a case study in which he analyzes the position of the United Kingdom in an Intergovernmental Conference (IGC) on social policy, foreign and security policy and enhancing the powers of the EP for the Maastricht Treaty. He has found out that LI has serious controversies since his case study did not meet the given assumptions. The British government was not completely constrained by economic interests; it rather imposed its view upon producer and interest groups (p. 358).

Furthermore, Forster noted that the UK did not necessarily have the assumed state preferences that it could defend in the IGC. It rather responded to the proposals rather than playing a substantive role in making them. Lastly, LI stipulates that the “threat of exclusion” will guarantee cooperation from resisting Member States. In reality, the UK was able to withstand the rest of the Community. It had domestic interests which were conflicting and it was accepted by the rest of the stakeholders in order for them to make concessions to the UK and reach a consensus altogether (p. 361). Therefore, Forster concluded that LI is difficult to apply on non-economic issues.

Second, LI is allegedly unable to account for everyday decision-making in the EU. It attaches much value to the formal and final stages of decision-making which view excludes the informal process of European integration. LI claims that the SEA was based upon lowest common denominator bargaining, but according to Wincott (1995), the SEA was just a formalization of the “supranational achievements” that had already been in practice (p. 606). This is what Moravcsik and Schimmelfennig (2009) also accepted: LI gives an inaccurate image of integration as a whole (p. 73). However, they countered this argument by claiming that LI is a theory of *intergovernmental* *decision-making* which is why it does “not explicitly theorize pre-existing institutional rules” within this framework. According to them, it means that LI is not created to analyze *everyday decision-making* at all. This statement makes the position of LI being named a grand theory of European integration questionable.

Third, because LI views the Member States as the main actors, it purposely excludes the role and influence of EU institutions in the integration process (Nugent, 2010, p. 434). As seen in the literature review, the Commission, as a policy initiator, exerts a decent amount of influence on how legislation takes form. Additionally, the European Court of Justice (ECJ) is responsible for the just application of EU law in all Member States. The law of the EU takes primacy over national law in Member States which is a visible argument for acknowledging the influence of EU institutions in national Member States. However, Moravcsik (1995) countered this argument by claiming that *intergovernmental demand* rather than *supranational supply* is the driving force for European integration (p. 618).

#### Link to EU Environmental Policies and Summary

Regardless of these criticisms, LI remains a working theory in which there are visible and stable assumptions. Additionally, environmental protection in the EU is directly linked to economic preferences which is why LI can still contribute in understanding the policy preferences of the stake holders. The extent to which one can detect LI in environmental policies is that it is argued that Member States are forced or pressured to adopt EU-wide policies due to globalization. Moreover, Moravcsik (1993) claimed that national states have an incentive to cooperate multilaterally, because it gives them control over their national policies. It allows them to achieve domestic goals that could not be possible without international policies. For instance, “negative international policy externalities” are removed by the adoption of EU-wide policies (p. 485). Those negative externalities occur when one country imposes a barrier on another country which undermines the goals of the second country. In other words, it is beneficial for Member States to agree upon environmental regulations in order to fully benefit from the Single Market.

LI expects that Member States are the driving forces of in the process of the creation of the 7th EAP. Furthermore, the intentions to support the creation of the latest EAP are based upon the economic interests or when it is difficult to establish environmental policies at the national level which makes it desirable to negotiate an agreement in Brussels. Even though an agreement is reached, LI expects that the terms are usually weak due to lowest common denominator bargaining. But this is not guaranteed when it is going to benefit the economy. Lowest common denominator bargaining seems to be disproven in the EU since environmental policies are not necessarily agreed upon the lowest standards. Additionally, progressive states can strive for stricter rules when it is more beneficial for them or for the common good. Due to the workings of qualified majority voting (QMV), states with high environmental standards can collaborate and push forward for higher standards.

In other words, even though LI claims that the more divergent national policies are, the more costly policy coordination is, is not necessarily the case in environmental policy-making (p. 492). Additionally, companies in low standard countries are not necessarily losing from higher standards, because they are still guaranteed access to the Single Market which is worth more than the costs to upgrade their standards according to LI. In conclusion, despite the justified criticism, LI remains a well-considered theory that is able to provide insight into the integration process of EU environmental policies.

### Neofunctionalism

#### Main Features

In contrast to LI, neofunctionalism (NF) attaches much value and power to the supranational institution rather than to the individual Member States. It is defined as “a theory of regional integration that places major emphasis on the role of non-state actors – especially, the ‘secretariat’ of the regional organization involved and those interest associations and social movements that form at the level of the region – in providing the dynamic for further integration” (Schmitter, 2004, p. 46). As the term is preceded by a prefix, there is an original variant of “functionalism” before NF existed. Niemann and Schmitter (2009) explained that the roots of Haas and Lindberg’s theory are derived from functionalism and federalism (p. 45). NF has taken over the mechanisms of technocratic decision-making, incremental change, and learning processes from functionalism, but it attaches much value to the independency of supranational institution and the common interest (p. 46).

The main difference between LI and NF is that the latter assumes integration to be a process. This is also seen in Haas’ (1958) definition:

The process whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations and political activities toward a new centre, whose institutions possess or demand jurisdiction over the pre-existing national states. The end result of a process of political integration is a new political community, superimposed over the pre-existing ones. (p. 16)

Even though both Haas and Lindberg are both named the “founding fathers” of NF, it is argued that Lindberg (1963) proclaimed a more cautious understanding of integration:

(1) The process whereby nations forego the desire and ability to conduct foreign and domestic policies independently of each other, seeking instead to make joint decisions or to delegate the decision-making process to new central organs; and (2) the process whereby political actors in several distinct setting are persuaded to shift their expectations and political activities to a new centre. (p. 6)

Haas (1958) seemed to have a relatively deterministic and “moving forward” direction with the EU: actors and its preferences are dependent on the progress of European integration. In other words, he assumes that integration continuously and positively builds upon integration and so on. However, Lindberg (1963) assumed that even though preferences are shifting due to cooperation, it does not take away the power of the nations to independently choose to transfer their power to a supranational institution, or in his terms “a new centre” (p. 6). However, Haas (1958) did not imply for the complete abandonment of national interests. Stakeholders merely gain new loyalties for the supranational community: the centre becomes an end in itself (Risse, 2004, p. 3).

The assumptions of NF can be presented in a few points. First and foremost, neofunctionalists assume that regional or European integration is best understood as a continuous process. In contrast, the liberal intergovernmentalists seem to focus on separate events and isolate those from the whole integration process. Additionally, there is progress which can evolve the institution for it to “take a life of their own and escape the control of their creators” (Niemann with Schmitter, 2009, p. 48; Niemann & Ioannou, 2015, p. 197). This puts an emphasis on the supranational character of the EU.

Second, even though there are changing dynamics, actors are still assumed to be rational and self-interested. They are able to learn from each other and from constructive coalition building across borders. Third, NF argues that incremental decision-making is more important than creating grand designs. Even though the actors are rational, they are incapable of “long-range purposive behavior” due to the constraints of imperfect knowledge and the pressure of deadlines (Niemann & Ioannou, 2015, p. 197). Therefore, much more value is attached to small improvements contributing to European integration. Fourth, interaction in the EU are marked as positive-sum games, because Member States are not only pooling their sovereignty but also their interests. Supranational decision-making is seen as beneficial to all stakeholders, because it is aimed at upgrading the common interests. Additionally, their cooperation is also driven by the pursuit of wealth (Niemann & Schmitter, 2009, p. 48). This is supported by Haas who assumes there is uninterrupted economic growth in a NF perspective.

Moreover, NF is also characterized by the concepts of spillover: there is functional, political, cultivated and induced or geographical spillover. They are operationalized as a means to understand the concept of furthering integration and the driving forces behind it. Functional spillover refers to a situation where the aim can only be reached if further actions are undertaken which again need further actions to support those actions (Niemann, 1998, p. 430). An example would be the creation of the Economic and Monetary Union (EMU), because these sectors have become interdependent which urge policy-makers to continue integrative steps. Political spillover is derived from national leaders who argue that their problems cannot be sufficiently solved domestically which is why they are seeking partnership transnationally.

Cultivated spillover looks at the other side whereby the supranational Community is fostering European integration by cultivating both functional and political spillover. Lastly, induced or geographical spillover comes from external impetuses. On the one hand, it stimulates outsiders to join the Union and further integration. On the other hand, the wishes of Member States are upgraded in order to serve the common goal of the supranational Community (Niemann, 1998, p. 432).

#### Criticisms

However, like LI, NF also has its flaws. The main criticism is that this theory is presented as a general theory of regional integration, but it is argued that it does not and cannot provide such a framework. Furthermore, critics dispute the inevitableness of the spillovers and the heavy reliance on economic determinism. From a realist point of view, spillovers do not automatically occur as actors are assumed to interact in an anarchic system which means that trust in others is not inherent at all. Additionally, an increase in European integration and the removal of cross-border barriers could also be possibly attributed to result from globalization in instead of from spillovers (Nugent, 2010, p. 432). As a response to this critique, Haas reformulated it to “the likelihood of its [spillover’s] occurrence”, but scope conditions of when spillover occurs remain absent (Niemann & Schmitter, 2009, p. 51).

Additionally, neofunctionalists are accused of relying too much on the European center. It is argued by critics that the European Single Market only remains a part of the whole world economy. Therefore, there may be external impulses that could have disintegrative forces upon the Member States. Furthermore, critics also blame the fact that neofunctionalists underestimate the influences of domestic political processes. NF unjustly puts too much expectations on national leaders by arguing that they join on the basis of economic prosperity.

They underestimate the domestic politics and the nationalist instinct of Member States that wish to retain their sovereignty which means that the pooling thereof cannot be taken for granted (Niemann & Schmitter, 2009, p. 53). Therefore, the national governments of Member States would be able to resist European integration. This view is supported by Caporaso (1998) who also argued that NF is unable to account for the debate among proponents and opponents of integration; NF seems to have a too positive and naïve view that assumes that everyone will benefit from integration (p. 9). Lastly, Member States do not always share the same opinion or expectations on highly sensitive or politicized topics which makes it difficult to reach an agreement. This is especially seen with the current refugee crisis and the Brexit.

#### Link to EU Environmental Policies and Summary

The link between NF and the environmental policies is that it is able to explain the advancement of such policies onto the EU agenda following an incremental process i.e. small nudges. With the aim to set common goals or upgrading the common interests, NF provides an account that follows through the spillover mechanisms. Through functional spillover, environmental policies are necessary to support the policies in the Single Market and vice versa. It results in an incremental process of integration in which one can see the interweaving of the national markets and environmental policies. Additionally, NF allows for the Commission leadership to foster legitimacy: it is a response from a supranational elite to the European citizens who are demanding more stricter environmental policies. This can be attributed to cultivated spillover. In other words, when the Commission aims to create higher standards with environmental policy, it also intends to establish or strengthen its position as a global actor in climate change which follows from geographical spillover (Cittadino, 2015, p. 22).

The expectations of NF in environmental protection policies is that it assumes that the European Commission is the driving force in the process of legislating the 7th EAP. In an interview, Liefferink (2017) argued that it is due to the Commission’s “bureaucratic politics” and the drive of its policy officers to create effective environmental regulation, which therefore may result in ambitious proposals (Appendix B). When the Commission is assumed to be taking the lead in the negotiations, it would push for the agreement with less environmental progressive states in order to create support for the greater good. Thus, environmental protection policies are seen by neofunctionalists as the expansion of powers and acknowledgement of the Commission while it also aims to bring benefits for the Member States.

In conclusion, NF has its strengths and is mainly based on economic gains and the common interest. However, the critics do have the right reasons in order to challenge this grand theory. Nevertheless, it remains a respected attempt at explaining the overall European integration process. The extent to which this remains applicable to environmental protection will be discussed in the following subchapter.

## Hypotheses and Conclusion

The above subchapters have elaborated on the assumptions, expectations, strengths and weaknesses of both liberal intergovernmentalism and neofunctionalism. It should be stressed that there is no “either … or …” narrative in explaining the creation of the 7th EAP. It should be understood that both theories have different expectations about how this process would go, but in reality, there is usually a synthesis of the theories visible. Nevertheless, when treating the theories as ideal types the above can be summarized in Table 2:

|  |  |  |
| --- | --- | --- |
| Table 2  Main assumptions of liberal intergovernmentalism and neofunctionalism | | |
|  | Liberal Intergovernmentalism | Neofunctionalism |
| Author(s) | Moravscik after Hoffmann | Haas and Lindberg |
| Perspective | MS point of view (bottom-up) | Commission point of view (top-down) |
| Dominant or preferred actors | Member States as rational actors | Supranational elite and the international community which is personified by the Commission |
| Theoretical roots and similarities | Traditional intergovernmentalism; neorealism with interdependence corrective (Forster, 1998, p. 349); rationalist institutionalism | Functionalism and federalism |
| Reasons for integration | Economic interests and globalization; integration for specific issues only. Mainly integration out of national interest | Political, functional, cultivated and induced or geographical spillover. Integration flows from and out of other policy areas |
| View of European (environmental) integration | Single and isolated events, not a continuous process | Regional or European integration is an incremental and deterministic process |
| Negotiations are characterized by… | Mostly lowest common denominator bargaining, but not guaranteed | Upgrading common interests by Commission |
| Gains for MS | Zero-sum game in anarchy and uncertainty | Positive-sum gains, everyone wins |
| Main criticism | Downplays the influence of EU institutions | Downplays power politics between and the role of MS |
| Consequences for EU environmental policies | Only when there are clear economic benefits for MS. In most cases, progressive states want stricter regulations on the basis of their national priorities | Due to spillover effects, MS should follow supranational elite to guide environmental policies which improves the legitimacy and position of the EU |

These theories contain aspects that concern the overall European integration process, so for it to be applicable on the field of environment, one must reformulate those assumptions. From the above subchapters, one can conclude that the theories both attach different roles and duties to Member States and the Commission. They also assume different powers within their relationship in creating legislation. Therefore, one is able to derive the following hypotheses with regards to those duties.

The first set of hypotheses is related to what the policy-making process looks like and to which stakeholder has been able to lead the negotiations. Firstly, H1 is linked to the assumptions of LI, because it attaches much value to the rationality and dominant powers of the Member States. In this case, the chosen stakeholder as embodied by the Netherlands would be dominating the 7th EAP negotiations. According to LI, it is due to the economic benefits that the Netherlands would commit to the creation of EU legislation. Consequently, the first hypothesis is formulated as follows:

H1: *The Netherlands are, as a representative of the Green Sextet Member States, within rational constraints, the driving forces of outlining the 7th EAP, because they can gain from EU-wide environmental protection policies.*

Second, H2 embodies the assumptions of NF, because it focuses on the role of the supranational elite. Given that the supranational elite is conferred powers from the Member States, it exercises the right to create legislation that benefits all. When translating this ideal assumption to the case, the Commission is assumed to take a lead in (cultivated) spillover guided integration. The Commission would carry the responsibility to upgrade the common interest and encourage stakeholders to commit to the creation of the 7th EAP. In this case, the thesis hypothesizes that the Commission would dominate the negotiations due to its position and legitimacy. This leads to the following formulation:

H2: *Due to spillovers, the European Commission is, as a representative of the EU, the driving force of outlining the 7th EAP, because it is benefiting their position and legitimacy.*

The following set of hypotheses is related to the European integration within the field of environmental protection and the significance of the outcome of the 7th EAP negotiations. If LI focuses on isolated events, the EAPs should be seen as a large cornerstone in European integration, because they embody the integration efforts by the Member States. It is also the proof that European integration is dependent upon the Member States to close this deal from a cost-benefit analysis. Thus, H3 manifests the rationality of Member States to agree on the basis of the lowest common denominator just to have an agreement on EU environmental policies taking form in the EAPs:

H3: *The EAPs are seen as a “snapshot” of European integration which means that the outcome of the 7th EAP mainly reflects the preferences of the Green Sextet led by the Netherlands.*

In contrast to H3, the following hypothesis is found in the assumptions of NF. If NF proclaims incremental decision-making, it can be argued that EU agreements or legislation is renewed periodically to improve upon. It is considered that the EAPs only experience positive upgrades due to the efforts by the Commission. In other words, the EAPs are routinely renewed with small upgrades which confirms the validity of European integration according to NF:

H4: *The EAPs are seen as a routinely renewed piece of legislation which is a means of delegating authority to the supranational elite and the confirmation of the European integration process. Additionally, there is incremental progress visible in the 7th EAP with respect to the previous EAPs.*

In conclusion, these are the hypotheses that will be tested through the empirical research of this thesis. More importantly, it should be stressed that this thesis does not aim for the complete rejection of either hypothesis; it is aiming to find how much of those hypotheses are visible in the evidence and whether or not the hypotheses need to be adjusted to the results. The operationalization in the next chapter elaborates upon the conditions in which one can see the (dis)confirmation of the hypotheses. Additionally, the methods, data and case selection of this research will be explained in further detail.

# Chapter 3: Research Design and Methodology



## Introduction to the Chapter

This chapter introduces the reader to the methods of process tracing and informal background interviews that will be used in order to conduct the research. Next, the contents of 7th EAP is explained which is followed by the explanation of the positions of the stakeholders, the Commission and the Netherlands. Hereafter, the data collection method and operationalization will be presented. Finally, the limitations of this study closes this chapter.

## Methods

In order to answer the research question, this thesis opts for process tracing (Beach & Pedersen, 2013). Since the creation of the 7th EAP is a process, process tracing thus seems to be the most suitable method in order to find out how the Member States (the Netherlands specifically) and the Commission have been able to reach an agreement. Process tracing is defined as a qualitative research method to identify, uncover and understand the black box of a causal mechanism. A causal mechanism is the causal process between X as the independent variable(s) and Y as the dependent variable. It is therefore assumed that X exerts a substantial effect on Y (e.g. X 🡪 “black boxed” causal mechanism 🡪 Y) and by studying this process, it allows for researchers to obtain deeper explanatory knowledge (p. 26). Process tracing knows three variants that each are characterized by theory centric or case centric components, testing or building theorized causal mechanisms and their ability to generalize or specify the causal mechanism in many or few cases.

This thesis wants to test the above theories in one specific case which means that “theory-testing” process tracing seems to be the most applicable variant. Theory-testing process tracing requires an operationalization of a theorized causal mechanism and allows for an deductive way of reasoning. In other words, with theory-testing process tracing, the researcher uses an existent theory from the literature and then tests whether or not this is visible in the evidence which allows for “within-case inferences” about whether the mechanism functioned as predicted and whether or not it was wholly present in the case (p. 3). Firstly, the causal mechanism should be conceptualized between X and Y. Secondly, the causal mechanism will be operationalized which is the translation of the theoretical literature into case-specific predictions (Beach & Pedersen, 2013, p. 14). Thirdly, evidence is presented that either support or disconfirm the presence and predicted functioning of the operationalized causal mechanism.

Alternatively, there is another variant of process tracing which is called “explaining-outcome” process tracing. As the name already points out, its purpose is to explain a particular outcome in a single case (Beach & Pedersen, 2013, p. 18). There are two pathways in conducting explaining-outcome process tracing. First, there is the deductive path which aims to find out whether or not a theory is able to explain the outcome. Second, there is the inductive path which aims to use the evidence in an under researched case in order to present a better explanation to the outcome.

From this, it is decided that this thesis employs a combination of theory-testing with a focus on explaining-outcome process tracing, because it seeks to test the above hypotheses while finding out how the 7th EAP was concluded. The evidence will be derived from data that consists of documents and other sources which are able to provide an insight into the process. In addition, this thesis will conduct informal background interviews in order to obtain insider knowledge of the Dutch and European intentions with the 7th EAP. For this, three interviewees are selected: first, the Dutch senior policy officer at the Ministry of Infrastructure and Environment, Renske van Tol, second, European Commission senior policy officer for DG Environment, Andrea Vettori, and third, assistant professor at Radboud University in International, European and comparative environmental politics, Duncan Liefferink. The questions that were asked to Van Tol and Vettori were related to their role and their representation of either the Dutch Ministry or the Commission. Liefferink was able to give further insight into the field of EU environmental policies.

This thesis aims to join those insights together in a coherent analysis that explains the causal mechanism. More importantly, this allows for a triangulation in the qualitative methods employed in this study. From the answers of the interviewees, the positions of the stakeholders are derived and included in this chapter.

## Case Selection

This thesis has chosen to analyze the case of the 7th EAP, because it is the latest Action Programme since 1973. These EAP negotiations were joined by the youngest Member States who have not been involved with the process of the EAPs before. In the following analysis of the EAP, this thesis adopts an EU perspective as represented by the European Commission and a Member State perspective as represented by the Netherlands in the Council of Ministers and nationally in the Ministry of Environment and Infrastructure. As seen in the previous chapter, the Commission and the Netherlands, as part of the Green Sextet, have both played a large role in shaping the environmental policies of the EU so far. This subchapter aims to shortly describe the 7th EAP before outlining the policy preferences of both stakeholders preceding the creation of the 7th EAP.

### The 7th Environment Action Programme

The 7th EAP named *Living well, within the limits of our planet* is the latest addition to the environmental policy programs in the EU. It is a Decision adopted through the Ordinary Legislative Procedure (OLP) which makes it legally binding upon the Member States. The OLP requires the participation of the Council of Ministers and the EP to discuss the details of the Commission proposal. The adopted legislative document that is published in the Official Journal of the European Union begins with a preamble that introduces the context of the 7th EAP, which is followed by a set of five articles that lay down the objectives and duties of the Member States and the institutions, and is concluded with an Annex that provides further details on what those objectives entail and how to achieve them.

Table 3 contains the priority objectives that have been agreed upon on 20 November 2013 and are divided into three sections. The first contains the key objectives or the thematic priorities. Those will be achieved by means of the enabling framework that identifies four “enablers”. Finally, there are two horizontal priority objectives that form the local and international aspect of the 7th EAP.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Table 3  Priority objectives of the 7th EAP (European Commission, 2016b) | | | | |
|  | Priority objective | | Details | |
|  | | Thematic priorities | |  |
| 1 | Natural capital | | Protect the biodiversity | |
| 2 | Resource-efficient economy | | Improve resource efficiency across the economy, transform the EU into a low-carbon economy and turn waste into a resource | |
| 3 | Healthy environment for healthy people | | Fight challenges that arise due to climate change (e.g. air and water pollution) in order to protect human health and wellbeing | |
| The enabling framework | | | | |
| 4 | *Improved implementation* | | A better implementation of existing legislation will benefit the environment, health and the economy | |
| 5 | *Increased information* | | Science should be made accessible to the public and investments in sciences should be made in order to prevent risks | |
| 6 | Secured investments | | Private and public sources are necessary to fund the means to achieve the ends | |
| 7 | *Better integration* | | The integration of regional policy, agriculture, fisheries, energy and transport is necessary to tackle the problem of climate change | |
| Meeting local, regional and global challenges | | | | |
| 8 | Sustainable cities | | Cities should be able to receive EU funding to deal with poor air quality, high levels of noise, greenhouse gas emissions, water scarcity, and waste in order to become sustainable | |
| 9 | *Tackling international challenges* | | Global approach is necessary by committing to the Paris Agreement and the United Nations Sustainable Development Goals | |

### Stakeholder 1: The European Commission

The European Commission is known to have (overly) ambitious goals with the direction and policies of the EU. This can arguably be a strategy for the institution in order to have great bargaining power and leverage during the negotiations which then may result in their initial mandate as the outcome. The Commission acts as a policy initiator and it represents the EU externally. From the literature review, it has become clear that the Commission wants to pursue further integration in this field as a result from other integration flows in other sectors. The Commission DG responsible for the 7th EAP is that of Environment led by Commissioner Janez Potočnik (Slovenia). In an interview, Duncan Liefferink (2017) also believed that the ambitions of the Commission are based both upon its will to establish a legitimate position and upon the aspiration of its policy advisors genuinely wishing to create an effective framework to combat climate change and protect the environment (Appendix B).

In an interview with Andrea Vettori (2017), it has become clear that the EU has a strong mandate due to the fact that opinion polls conducted by the Eurobarometer. The results showed that the public has a positive view on environmental policies being regulated on the EU which in turn raise the Commission’s ambitions (Appendix C). 95% of all European citizens said that protecting the environment is important to them personally (TNS Opinion & Social, 2014, p. 9). In addition, 70% of the respondents claimed that their national governments are not doing enough to protect the environment (p. 64). He also argued that the position of the Commission on the new EAP is also based upon the Impact Assessment of the 6th EAP which will be discussed in the next chapter.

Furthermore, it was important for the Commission that the Member States had to become aware that environmental policies are a common responsibility. Therefore, he argued that the 7th EAP had to embody a coherent narrative, a strategy in which all interlinkages of the limited number of objectives were shown, instead of a so-called “Christmas tree” on which Member States can hang up their own ornaments (Vettori, 2017, Appendix C). In other words, the Commission intended to create unity and support and present (the proposal of) the 7th EAP as a commitment of the EU as a whole to protect the environment.

Due to the principle of conferral, the EU institutions are delegated authority and power from national states in order to create legislation. Some Member States can encounter domestic conflicts when they want to push forward environmental policies. With the delegation of authority to the EU, it gives them a mandate to do so and nationally implement the decisions made in Brussels as argued by Dahl (1994). This is also a characteristic of the dynamics between Member States and the Union. Thus, environmental policies can be seen to legitimize the institution(s) and vice versa.

However, in the past EAPs, the Commission also struggled with retaining support from (some) national governments as it did not fully embody the interests of the states *and* the industries. Therefore, this thesis aims to find out whether or not the Commission has been able to re-establish or maintain its position as a leader and fulfill its goals in contrast to the preferences of the Member States personified by the Netherlands. This is especially important as the Commission wants to achieve legitimacy as a relevant institution and create unity within the EU with a successful EAP.

### Stakeholder 2: The Netherlands in the Council of Ministers

The Netherlands is one of the founding Member States of the EU. It has been an active member ever since. The EU consists of seven different institutions and national member states can explicitly exert their interests and influences via the Council of the European Union which is also known as the Council of Ministers. This is a forum where national ministers meet in different formations and configurations to discuss policy in that particular area. The configuration that is of interest in this thesis is called Environment[[13]](#footnote-13). The Dutch Ministry that joined this configuration is that of Environment and Infrastructure. Additionally, the Council is characterized by its rotating Presidency: one Member State is in charge of business and agenda setting for a period of six months. It can therefore be argued that the president of the Council could have an influence in the negotiations on the 7th EAP. During the coming about of the 7th EAP, the Netherlands was a regular Member in the Council.

In the past EAPs, the goal of the Netherlands in environmental negotiations has been the protection and progression of its businesses and industries while upholding its known, but relatively high environmental standards in relation with other Member States. With the advent of new Member States, this thesis aims to find out whether or not the Netherlands, as a representative of the Green Sextet in this study, was still pursuing high standards, or had to give in to less environmental progressive States. It has become clear that the Netherlands initially wanted to focus on the implementation, integration of environmental goals in other policy areas, innovation and international cooperation in order to create a level playing field (Schultz van Haegen-Maas Geesteranus, 2012, December 4). The Dutch mandate is also based upon its high population density which is why a better implementation of EU regulations was deemed to be necessary. Accordingly, the fulfillment of these points would contribute to the effectiveness of environmental policies in practice.

Therefore, priority objectives 4, 5, 7 and 9 (in italics above) in Table 3 are arguably the main interests for the Dutch delegation. The aim to create a level playing field can also be related to a focus on the economy as in the debate outlined in chapter 2.1.2. Therefore, this research seeks to explore the motivations of the Dutch and find out whether or not they have been pushing forward high standards as seen in the previous EAPs.

Regardless of their wishes to concretize the goals of the EAP, they also maintain that an EU-wide soil policy remains undesirous according to an interview with Renske van Tol (2017, Appendix A). Soil policies have been a debate within the EU since 2006 when the Commission adopted a Soil Thematic Strategy for the 6th EAP including a proposal for a Soil Framework Directive (SFD). The Netherlands was in a blocking minority that were opposing the Directive, because they claimed that the European Commission exceeded the principles of subsidiarity and proportionality with a legally binding EU-wide soil policy. This might explain the position of the Dutch to prioritize and opt for and focus on a level playing field and a better implementation and integration of current environmental legislation instead.

In other words, this distinguishes the demands of the Netherlands and the Commission with the creation of the 7th EAP, because they do not share the same preferences on soil policy. Both positions and motivations will be explained and assessed in the empirical chapter. Additionally, a closer analysis of the Dutch position and the consequences of the SFD and soil policies will also be provided.

## Data

This thesis uses data related to the 7th EAP from reports and assessments from EU bodies and independent research bureaus (IEEP) in order to structure the evidence to find and test the causal mechanism accordingly. Documents (*geannoteerde agenda’s* and *Kamerbrieven*) from the Ministry of Infrastructure and Environment and Ministry of Foreign Affairs are included to display the position of the Netherlands. The Minister and/or the Secretary (*Staatssecretaris*) involved in the negotiations in the Council have to report back to the government and the Dutch parliament. These reports and documents are freely accessible. Documents that present the position of the European Commission come from the corresponding website (DG Environment). The Council of Minister also has its own database in which reports from meetings and (common) positions of Member States are published (General Secretariat). The EP also takes part in the OLP, therefore, documents from the Legislative Observatory are also included to the data. Additionally, sources from online news outlets and secondary literature are used in order to help reconstruct and explain the positions of the stakeholders and provide supplementary information.

The timeline starts on 1 January 2012 which was the first day of the Danish Presidency of the Council. Since reports and data can be published after the adoption date (29 November 2013), this thesis takes 31 December 2013 as the last day for its data collection, because it is also the last day of the Lithuanian Presidency of the Council. The Lithuanians are assumed to be the last to hold Presidency who were dealing with this dossier.

This thesis adopts a similar structure to Withana et al. (2010) and Homeyer et al. (2011) for their assessment reports of the 6th EAP. They described the historical timeline of the creation of the previous EAP and aimed to explain certain decisions and events. However, they did not explicitly explore the positions of each stakeholder which this thesis aims to do so for the Netherlands and the Commission.

Because this thesis is only able to access public files, this thesis is going to use results from the informal background interviews which will contribute in understanding the coming about from an insider’s perspective. As explained in the previous section, the three interviewees were selected upon their role and position in and towards the field of EU environmental policies. The results of the interviews are provided in the Appendices. In sum, from the collected data, this thesis will identify, focus and elaborate upon significant events within the procedure.

## Operationalization

This thesis expects to find that the hypothesized causal mechanisms in the research will be visible in the data by the positions and comments from the Netherlands in the Council of Ministers in contrast to that of the Commission. The grand theories of liberal intergovernmentalism and neofunctionalism have different expectations on how such negotiations develop and how integration progresses. The literature also demonstrates that the dynamics between the Member States and the Commission have been characterizing the European integration process.

For example, when the Commission has been the driving force in the negotiations and ambitious objectives are set, it can be claimed that a Commission-led harmonization of interests can be identified. This would take shape in ambitious and binding rules that are of general interest to the whole EU. In contrast, when the Netherlands, as a representative of the Green Sextet, has been the pulling the strings which results in the observations that Dutch preferences are more prevalent in the outcome, then one can conclude from the empirical evidence that the 7th EAP is driven by Member States’ interests instead. From the position of the Dutch delegation, this would take shape in voluntary rules and no common binding soil policy. These are the two (ideal) extremes in which one can see a clear “leader” in negotiations and whose interests are the most prevalent in the final agreement. These assumptions serve as the conditions for the falsification and/or verification of hypotheses H1 and H2.

Thus, one can imagine a continuum (see

Figure 1) in which on the one hand there is Commission-led harmonization with binding criteria and on the other hand there is national discretion with voluntary criteria. The empirical analysis provides the arguments where the stakeholders and the 7th EAP can be positioned and this will be discussed accordingly.

|  |  |
| --- | --- |
|  | |
| **National discretion of MS**  Voluntary criteria  Fulfillment of national goals | **Commission-led harmonization**  Binding criteria  Upgrading common interests |
| Figure 1. Continuum of preferences on creating EU environmental legislation. | |

Due to the history and nature of policy-making in the EU, this thesis assumes that a mix of the two pathways or a certain extent of either pathway can be discovered and identified. The indications to find such assumptions in the evidence are thus found in statements from either stakeholder which may express the willingness to create legislation and how the legislation is preferred to take shape. Due to the legislative mechanism, OLP, both parties need each other to continue the process which determine the dynamics within the EU. As seen before, the Member States (or the Netherlands specifically) are able to form a blocking minority which demonstrates the unwillingness and the desire to do it differently or not at all. This should be taken into account by the other institutions which also affects the final outcome.

The conditions for the (dis)confirmation of hypotheses H3 and H4 can be found in the evidence as to whether or not the outcome of the EAPs (would) have a serious impact upon the field of the environment. The overall European integration process is experiencing different speeds in the different policy areas: for example, the field of the environment is experiencing more integration and progress than the field of the Common European Asylum Policy.

Nevertheless, for the field of the environment, this thesis argues that there is an identification of two different positions. On the one hand, the EAPs can be seen as another set of simple policy plans that are just regularly adopted at the lowest common denominator or on the other hand, the EAPs can be regarded as substantive policy plans in which (serious) improvements to the field can be identified. These positions can also be placed on a continuum (

Figure *2*) with some characteristics that this thesis aims to find in the empirical evidence:

|  |  |
| --- | --- |
|  | |
| **Weak policy plans**  Lowest common denominator  Not significant for integration process | **Substantive policy plans**  Serious improvements  Focus on integration and implementation |
| *Figure 2*. Continuum of the outcome of EU environmental policy negotiations. | |

At the end of the empirical analysis, this thesis will present the position of the EAPs on this continuum. It should also be noted that the evidence may provide different or more characteristics than those listed above which have been derived from the literature and the theories.

## Limitations

This thesis can be classified as a single-case study in which qualitative research methods are employed. Nonetheless, this has its strengths and weaknesses. One of the main strengths is that qualitative research methods allow for an interpretative, but rich understanding of the empirics in comparison with quantitative research methods. Consequently, the internal validity is high. However, because it is a single-case study, it is low in external validity i.e. the generalizability is weak. Because qualitative research is mainly based upon interpretations, it involves research bias which might influence the outcomes. Nevertheless, this thesis hopes that the results found can be extended to further understanding environmental policies at the national and EU level. The results primarily aim to contribute to the comprehension of the dynamics between the Netherlands and the institutions, but it is argued that the setting of this research can also be applied for another Member State.

This thesis has specifically opted for the Netherlands as the main stakeholder in this analysis due to the history in the past as a Green Sextet Member State. Therefore, due to the scope of this research, this thesis cannot fully account for the constraints and preferences of other Member States, more specifically, the known “laggards” in EU environmental policy. By focusing on the Netherlands and the Commission, this thesis does not take the positions of thinktanks and/or NGOs who are interested in lobbying into account, also because it is argued in an interview with policy officer Van Tol (2017) that those groups were not active due to the general and flexible nature of the EAP (Appendix A).

# Chapter 4: Empirical Research



## Introduction to the Research

This chapter conducts the analysis using the methods and data as described in the previous chapter. Firstly, the next subchapter reconstructs the steps of the Ordinary Legislative Procedure for the 7th EAP from a Commission and Dutch perspective. Second, this section identifies key characteristics of the establishment of the 7th EAP and aims to clarify these events with both LI and NF accordingly. Lastly, the chapter is concluded with the discussion of the (dis)confirmation of the hypotheses which is supplemented with evidence from the empirics gained previously.

## Outline of the Ordinary Legislative Procedure for the 7th Environment Action Programme

This subchapter aims to reconstruct the process of the creation of the 7th EAP through the OLP. Formerly, the OLP was known as the co-decision procedure, but it was renamed with the entry into force of the Treaty of Lisbon in 2009. This process is initiated by the European Commission with a consultation period which is the first step in the OLP. The Commission takes the concerns of the stakeholders into consideration before presenting the Proposal and provides accompanying documents that, according to them, justify the Proposal. The motivation of the Commission on the Proposal in those documents are subsequently assessed and explained.

Hereafter, much attention is dedicated to thoroughly analyze the formulation of the position of the Netherlands towards the Proposal. This process occurs on the national and ministerial level which is why government documents are used in the analysis. After the presentation of the Proposal, the following step is the First Reading that allows the European Parliament and the Council to make amendments to the Commission Proposal. Later, it has become clear that it was collectively decided to hold informal trialogues, thus, the results of these meetings are discussed. Informal trialogues are meetings that are attended by MEPs, Council and Commission representatives, but remain closed to the public. After three informal trialogues discussing the details of the text, it resulted in an agreement which was first adopted by the EP and later by the Council by QMV. Alongside the adoption, statements from Member States including the Netherlands were presented and are subsequently examined in the last part.

### Consultation Period and Preparatory Steps

As the 6th EAP was expiring, the Commission opened a public stakeholder consultation period from 12 March 2012 until 1 June 2012 in which interest groups were given the possibility to provide their opinions of and views for the new EAP. The Danish Presidency of the Council of Ministers (1 January 2012-30 June 2012) also utilized this opportunity to encourage other Member States to voice their priorities and concerns. However, due to the general and flexible nature of the EAPs, it was according to Van Tol (2017) not obligatory for Member States to declare their positions during that period (Appendix A). This is sustained by the fact that only seven public authorities from Member States (UK, Malta, Belgium, Norway, Germany, Ireland, Scotland) delivered their opinions to the Commission (European Commission, 2015c).

Nonetheless, the Ministry of Environment and Food of Denmark (n.d.) regarded the 7th EAP as “one of the main priorities of the Danish Presidency”. Mr. Sørensen, the Head of the Danish Environmental Department, said that the starting points of the Danish for the new EAP were based on the future contribution to the implementation of the Europe 2020 strategy[[14]](#footnote-14) and to stress the importance of nature and environment policy, because that was considered to be a “driver for economic growth and job creation” (Lauranson, 2012, p. 15).

Subsequently, informal meetings were organized for the European ministers of Environment between 18 and 19 April 2012, in Horsens, Denmark, in order to discuss the priorities of the Council with regards to the new EAP. The main outcome was that the ministers agreed upon creating a 7th EAP, because, as it was argued, it could help with restoring the economy after the financial and economic crisis of 2007-2008. This argument is based upon the need for resource efficiency which can lead to job creation and economic growth when economic competitiveness is improved (Danish Presidency of the Council, 2012, p. 2). This shows that the Council acknowledges the interdependency of the environment and the economy. However, it can also be understood that the upcoming EAP was seen as a means to revive the economy rather than an end in itself. This can be linked to LI which argues that it is purely for the Member States’ economic reasons that they started these (pre-)negotiations.

Moreover, it shows that Denmark as a Green Sextet Member State attached much value to establishing a common position before the presentation of the Commission’s Proposal. Additionally, it is pointed out by Vettori (2017) that it was not only Denmark, but also Belgium that who closely engaged with EU environmental policies. During their Council Presidency (1 July 2010-31 December 2010), the Belgian delegation was already proactive in taking the first steps in pressuring the Commission for a new EAP (Appendix C).

The Council presented its conclusions in June 2012 on setting a framework for a new EAP (Council of the European Union, 2012, p. 1). The Ministers collectively preferred to see an improvement of the implementation and execution of environmental policies while striving for a greener economy. The Dutch minister of Infrastructure and Environment, Schultz van Haegen-Maas Geesteranus (2012), reported to the Parliament, *Tweede Kamer*, that the Dutch position centered on hoping to see that the Commission Proposal will work on harmonization and improvement of substantial requirements with regards to the environmental policies (p. 5). The European Parliament (2012a) wished to see a focus on the three ‘i’s: implementation and strengthening, integration, and international dimension in an adopted resolution on setting the priorities for the 7th EAP. In a press briefing, the EP has explicitly stated that they wanted to push for a stricter and more ambitious EAP (European Parliament, 2012b).

In sum, this period revealed that there were initial steps from all stakeholders to voice their concerns for the new EAP. Belgium and Denmark showed that they were very interested in creating the follow-up for the 6th EAP. When Belgium and Denmark are treated as individual Member States, it can be understood as LI behavior, since they were Member States who were taking the lead in shaping the upcoming EAP. However, these developments can also be attributed to NF, since there is a spillover effect visible: due to the integration of the markets, it is argued that deeper legislation is necessary to improve the functioning of the markets. It should be noted that the stakeholders’ opinions so far should be regarded as preliminary and general. The details of the priorities of each stakeholder including that of the Commission and the Netherlands will become more prevalent after the presentation of the Proposal as it provides a concrete document to work on which is discussed in the next subchapters.

### Presentation of the Commission Proposal

After the consultation period, the Commission took the stakeholders’ opinions, the European Environment Agency’s (EEA) State of the Environment Report, the internal and external final assessment of the 6th EAP and a report on the implementation of the European Environment and Health Action Plan 2004-2010 into consideration before the presentation of the Proposal on 29 November 2012 (European Commission, 2016d). In an accompanying document to the proposal, *Impact Asssessment*,the Commission elaborated upon the identified objectives, their position and the reasons why they have presented the Proposal. The Commission identified four key issues resulting from the 6th EAP which should be resolved with the 7th EAP:

* The inadequate implementation of the environment policy acquis;
* Inadequate incentives for investment in environment and climate action;
* Problems of policy coherency and inadequate integration;
* Gaps in the knowledge base for policy making and challenges associated with new and emerging issues. (European Commission, 2012a, p. 16-17).

With the identification of these key issues, the Commission was given a mandate and was able to promote the necessity to solve these issues at the EU level. According to Vettori (2017), this was presented as a “common responsibility” for the Member States and the institutions to collectively take action since the field of the environment is a shared competence (Appendix C). This can be considered as NF behavior since it can be argued that it was the supranational Commission’s intention to upgrade the common interest as a means for all stakeholders to be involved in solving these problems.

In contrast, this development may also be attributed to or framed as LI. One may find similarities between the above issues and those identified by the Member States in the previous section, for example the implementation and integration of such environmental policies. Especially when the EU serves as a forum where Member States delegate their authority in order to create legislation that cannot be effectively regulated on the national level. In this case, it means that the Commission has taken over the interests of the Member States in order to fulfill their needs. With both theories in mind, one should look at the following statement by the Commission. The institution presented the following novelty to the Proposal in an accompanying Q&A:

Past programmes tended to focus on specific environmental issues in isolation. The new approach is to consider how these issues are inter-related and how improvements in one area can deliver multiple benefits not only for the environment but also for the economy and society. (European Commission, 2012b).

This statement again underlined the mandate of the Commission, because it attached significant value to the environment, standard of living and economy in the EU. It is claimed by Vettori (2017) that (the Proposal of) the 7th EAP had to show the “interlinkages of the priority objectives” (Appendix C). So far, this demonstrates the spillover effects that NF stipulates. However, it can also be understood as LI, since economic benefits resulting from the EAP could be gains for the Member States. Thus, this can be interpreted that both theories are able to account for the emergence of the 7th EAP Proposal.

More details on the position of the Commission can be found in the Impact Assessment wherein the Commission elaborated on a two-step policy routes in which each step had three options for EU environmental policy. The first step concerned the choice of actions “options for Policy Content” for after the 6th EAP: option 1 was continuing with existing legislation, also known to be “business-as-usual”, without any significant efforts to advance the implementation and effectiveness; option 2 allowed for additional efforts as a means to smarter implementation; and option 3, which was basically option 2 *and* the additional task of responding to new knowledge. This was the preferred option by the Commission which was therefore suggested in the final Proposal (European Commission, 2012b, p. 26-31). This demonstrates that the Commission’s priority was to show the importance of the added value of the (new) EAP and that this system should remain to guide EU environmental policies.

The second step was to determine what kind of EAP there should be as a follow up in case there was be a new EAP. This step was labeled as “options for the Delivery Mechanism” (p. 43). Option A allowed for the discontinuation of the EAP policy approach; option B aimed to structure the new EAP in the same way as the 6th EAP – business-as-usual; the Commission preferred option C which was the formulation of a new EAP which contained a “limited set or priority objectives” (European Commission, 2012b, p. 47). In other words, they wanted to opt for efficient environmental policies that were able to solve the above problems of inadequate implementation, lacking investments, knowledge gaps and problematic policy coherency. The Commission’s assessment of the policy options are summarized in Table 4.

|  |  |  |  |
| --- | --- | --- | --- |
| Table 4  Overall assessment of options (European Commission, 2012b, p. 52) | | | |
|  | Effectiveness | Efficiency | Coherency |
| *Step 1: choice of actions* | | | |
| Option 1 | 0 | 0 | 0 |
| Option 2 | + | ++ | + |
| Option 3 (preferred option) | ++ | ++ | ++ |
| *Step 2: choice of actions (how to best deliver Option 3)* | | | |
| Option A | - | - | - |
| Option B | 0 | 0 | 0 |
| Option C (preferred option) | + | + | ++ |

However, one should be critical towards the given options by the Commission, since it can be argued that the first two options of both steps do not necessarily provide realistic options. Especially because the EAPs were received positively by interest groups and Member States and all have called out for the deepening of the EAP in earlier statements. Although an extended explanation for the other options is provided in the Impact Assessment, it seemed highly unlikely that that would have been seriously considered as the next step in the EAPs. Choosing the third options simply demonstrates that the Commission is committed to renewing the EAP with the underlying motive to conserve the purpose and legitimacy of this Programme and the institution – which again could be attributed to NF. Thus, it can be understood that the Commission already had an agenda which is why it preferred to go with the progressive options, but the suggestions of the other options remained weak, unrealistic and not necessarily contributing to the overall legislative procedure.

In conclusion, compared to the previous section, the pendulum is seen to shift to the Commission as it was leading the procedure with the presentation of the Proposal. Since the Proposal was presented in November, near the end of the term of the Cypriot Presidency (1 July 2012-31 December 2012), the Presidency was only able to organize a first exchange of thought among the ministers according to Vettori (2017); which will be discussed hereafter (Appendix C). With the selection of option 3 and option C, the Commission’s priorities can be summarized in a more concrete, but less broad proposal. This lined up with the demands from the Member States in the previous section which then can be related to LI. Additionally, this is supported by the choice to opt for limited objectives which may also be interpreted as lowest common denominator bargaining, e.g. it is no longer ambitious as the previous EAPs. However, within the Commission’s mandate, it has been able to maximize the level of stringency for each option.

Thus, but on a general level, it seems that the Commission has listened to the main demands and concerns of the stakeholders including the Netherlands. One should dive deeper into the specifics of the Proposal in order to find out the relevant issues that might clash between the Commission and the Netherlands. This will be discussed in the next section.

### Formulation of the Dutch Position on the Proposal

After the presentation of the Proposal, the environmental ministers received the text to work on. This was during Environment Ministers’ meeting on 17 December 2012 under the Cypriot Presidency. The initial Dutch response to the Proposal was that it supported the Commission’s intentions on furthering the integration and implementation of environmental policies. It was also appreciated that the (general) Dutch concerns were included in the Proposal. However, together with other Member States, the Netherlands called for the concretization of certain policies (Mansveld, 2013, January 23).

The final and official public position of the Netherlands can be found in a report of a specialized working group (*interdepartementale werkgroep Beoordeling Nieuwe Commissievoorstellen* (BNC)) that analyzes new Commission proposals for the government. This assessment is known as a *BNC Fiche* and this includes a summary of the Proposal, a proportionality and subsidiarity assessment, the (potential) financial and legal consequences for the homeland and developmental states and finally the Dutch opinion for this Proposal.

From this report, it can be seen that the Netherlands welcomed the Commission Proposal in creating a new EAP. Especially since the BNC Fiche confirmed that there was an acknowledgement of the Dutch priorities on implementation, integration, innovation and international cooperation in the Proposal. Despite the relatively positive comments, the Dutch preferred to see more voluntary criteria, and referred to the subsidiarity principle on various occasions (Timmermans, 2013, January 11, p. 4). This means that the Netherlands did not want the creation of binding legislation and rules, they preferred to keep their national discretion to environmental norms and criteria instead. It seems that this critique marked the first time when the Netherlands and the Commission have different views concerning the content of the 7th EAP. The Netherlands did not wish to blindly follow the Commission’s intentions of furthering integration. This demonstrates the rational behavior of the Member State which is an LI assumption and not the deterministic and positive approach on creating legislation and integration as expected by NF.

Additionally, the Netherlands raised questions on how the Commission wanted to achieve the so-called “external integration”, because it lacked concrete measures (Timmermans, 2013, January 11, p. 7). Therefore, the Fiche included some phrases that stated that the BNC commission was unable to make an assessment upon, because the Proposal was not explicit enough on these points. For instance, the implications for the judiciary, performance and implementation of the proposal were dependent upon the further specifying of the details (p. 5-6).

Moreover, the Dutch preferred not to see a legally binding and common EU soil policy in the 7th EAP. Soil policy has been an issue in the EU since the presentation of the Soil Thematic Strategy alongside the proposal for a Soil Framework Directive[[15]](#footnote-15) (SFD) for the 6th EAP in 2006. The Commission became invested in soils, because they regarded it as a non-renewable resource. The erosion of soil quality can result in the degradation of the biodiversity, food safety and health, and should therefore be highly regulated and protected.

The SFD led to resistance from the Dutch Parliament as they argued that soils are and should remain a local and domestic competence, and that any such EU Directive was inefficient and would lead to a “bureaucratic hassle” (Heck, 2006). Amongst others, the Commission wished to lay down requirements for the sale of a site. In addition, it was the plan that a soil status report should be issued by an authorized body or person must be provided in order for the sale to proceed (art. 12 of the Proposal for the Directive). This would give way for EU-wide norms for the amount of allowed organic matter decline in soils and a limit of erosion by water and/or wind. Consequently, this was deemed to violate the principles of proportionality and subsidiarity not only for the Dutch, but also for the German, French, British, Austrian and Maltese delegations (EurActiv, 2012a).

In contrast, the EP was a proponent for the common soil policy, and it voted to accept the SFD proposal against the wishes of the Dutch (Europa Nu, 2007). The Commission defended the SFD proposal as a means to create a level playing field and reduce distortion of competition within the Internal Market. However, since the presentation of the SFD proposal in 2006 until the negotiations of the 7th EAP, the proposal has not received a majority in the Council and remained a pending proposal. Therefore, the Commissioner for Environment wanted to give soil policy an impetus in the negotiations in the 7th EAP (EurActiv, 2012b).

The SFD controversy shows that some Member States including the Netherlands have been able to push back against the Commission-led integration as explained by LI. Moreover, it shows that they want to limit the Commission’s plans, as they do not want legislation that is inefficient or disadvantageous due to the claimed unwanted bureaucracy. However, as the Commission remains dedicated to the creation of the SFD or to a similar soil policy, it can also be interpreted that the Commission still views itself to be uplifting the common interest and the SFD to be a positive-sum game. This would then serve as a NF explanation. In sum, LI would account for the Member States’ wishes while NF is able to back the Commission’s motivations behind the SFD.

Thus, in order to avoid this discussion on the soil policy, the BNC Fiche suggested that the Commission should focus on improving the environmental cooperation within the EU instead. The Dutch mandate during the negotiations was that included the simplification of existing legislation and procedures without hindering the environmental objectives. According to this Fiche, it will result in the strengthening of the implementation, which should also be easier to conform to. Additionally, when supplementary EU legislation is proposed, it was suggested that it should be accompanied with an impact assessment so that Member States and the EU will become certain that the new legislation will be effective.

The Dutch opinion again stressed the preference of a voluntary character of creating criteria specifically for land use, spatial planning and sustainable cities. Lastly, the BNC Fiche mentioned the national efforts that had already began to shape the mobilization of the industries and other societal groups that were contributing in creating a more sustainable economy. This suggests that the Netherlands is already undertaking substantive action in the area of environmental protection. Therefore, the Netherlands acknowledged and welcomed the opportunities that a EU-wide programme could add to this. According to the Dutch, this could take shape in facilitating subsidies for innovation and greening the economy (Timmermans, 2013, January 11, p. 8).

In conclusion, the concerns in the BNC Fiche can be summarized by saying that the Dutch preferred to limit the creation of additional legislation and rather wished to see the Commission and the EAP to focus on the effectiveness, efficiency and implementation of existing legislation. The Netherlands did not wish take on and commit to additional and binding legislation before it is proven that these yields sufficient benefits for all stakeholders. Most importantly, the Dutch preferred to retain the voluntary nature of many issues and defended their right by referring to the principles of subsidiarity and proportionality. This section shows that the Member State, as exemplified by the case of the Netherlands, has been able to resist the supranational institution of the Commission. It can be argued that such binding norms and rules were not deemed to benefit the Dutch economy. According to LI, this would mean that they were not or no longer interested in furthering or deepening the integration in this field due to the arguments based on cost-benefit calculations.

Thus, the SFD and the soil policy in the 7th EAP are examples of Dutch aversion against the Commission’s desire to create non-voluntary and binding rules. The Netherlands already have an extensive nationally regulated soil policy which is why the SFD and conforming to EU norms were deemed to be unnecessary and infringing upon the national sovereignty. However, the SFD was welcomed by other Member States who do not have a national soil policy, because it is difficult for policy makers to establish this nationally in those countries (Heck, 2006). These Member States were thus more willing to regulate this on the level of the EU. Therefore, it should become clear in the next steps how the soil policy developed in the 7th EAP negotiations.

### First Reading

After the presentation of the proposal, the next step in the OLP is the First Reading. In this stage, the Commission can neither adjust its wording nor contribute to the process. The First Reading only allows the European Parliament to examine the proposal and suggest amendments or to adopt it in its entirety before it goes to the Council. The EP has a responsible committee (ENVI (Environment, Public Health and Food Safety)) and appoints a rapporteur (Gaston Franco, (European People’s Party Group) PPE) who was in charge of the dossier. There were also shadow rapporteurs involved (Jo Leinen, Gerben-Jan Gerbrandy, Margrete Auken, Anna Rosbach and João Ferreira) who were appointed to represent the views of other political groups (European Parliament, 2013a).

It turned out that the ENVI Committee of the EP adopted 197 amendments in its Position to the Commission Proposal (European Parliament, 2013a). These amendments amongst others included referrals to risks to human and animal health (para. 5), prevent and reduce toxic matters for recycling purposes (para. 38), future generations (para. 92) in the Annex, and aimed to see additional phrases to the Proposal. This is in line with their first public statement as seen in chapter 4.2.1 as they wanted to achieve a more ambitious EAP than was originally proposed by the Commission. However, some amendments remained relatively vague and did not necessarily add substantial policy weight to the original. Yet, the EP amendments intended to cover the current issues and identify more potential problems that should be solved for more sustainability and environmental consciousness in the EU. For example:

Recital 8 in the Proposal:

(8) The programme should help achieve the environment targets the Union has already agreed.

Recital 8 as amended by the EP:

(8) The programme should help achieve the environment targets the Union has already agreed ***and identify policy areas where there is a need to set additional targets***. [emphasis in original] (European Parliament, 2013a)

This amended proposal went to the Council which exercises the right to adopt or amend the Parliament’s Position on the 7th EAP. During the period when the ENVI Committee of the EP discussed the proposal, a Working Group within the Council was active that also met several times to analyze this. The Dutch delegation added suggestions for phrases such as “non-binding sustainability criteria” and argued for the propagating of the voluntary nature of certain policies (Council of the European Union, 2013a, p. 14). For instance, the Dutch argument was that sustainable cities should remain a local competence and therefore, they suggested the phrase “voluntary sustainability criteria”.

In addition, in the next report, the Dutch delegation expressed its discontent with the manner how the soil policies had been laid down so far. They stressed that a binding legal framework at the European level for soil was deemed to be undesirable (Council of the European Union, 2013b, p. 23; Van Tol, 2017, Appendix A). Therefore, the Dutch suggested that any binding targets or objectives on land and soil were to be removed or replaced by voluntary and non-binding terms in the draft instead (p. 24). For example, they explicitly requested the removal of the following phrases: “using a risk-based approach within a binding legal framework” in paragraph 23 of the Annex and “supported by the adoption of targets on soil and on land as a resource, and land planning objectives” in paragraph 26. Again, they sought to see “a set of *voluntary* sustainability criteria for cities” in paragraphs 90 and 91 of the Annex.

In sum, the amendments made during the First Reading shows that the EP was pushing for stricter and more ambitious norms than the Commission. However, these amendments were not preferred by the Netherlands. More importantly, it can be understood that the Dutch were seen to be weakening the original Commission Proposal. By promoting the voluntariness of certain policy ideas as they wished to retain their national discretion as they did not fully support the Proposal. This is again an indication of the rational behavior of the Member State as seen within LI, because LI stipulates that rational calculations take precedence over the collective interest. The Dutch input in the Working Group aimed to reflect the position of the Dutch Ministry (as seen in the government documents) as precisely as possible. However, LI is unable to account for the power and independency of the EP, because LI would expect Member States to be dominating the negotiations while the opinions of each stakeholder are treaty equally in practice so far. Therefore, NF could provide a better explanation in the existence of this supranational institution, because NF does not necessarily disregard the independency of the EP.

Regardless, on 21 May 2013, a document was published in which all amendments of the EP and the Council were presented in comparison with the original proposal. This formed the basis for the informal trialogues. It was decided collectively by the stakeholders to hold informal trialogues, because it was in the interest of all to do so. Informal trialogues allow the Commission to have a say in the negotiations again. This influence of this stakeholder in comparison to the Council and the EP will be discussed in the next section.

### Informal Trialogues

The informal trialogues were led by the Irish Presidency of the Council (1 January 2013-30 June 2013). These are meetings that involve representatives of the EP, Commission, and the Council. The informal trialogues are preceded by the technical meetings of the Committee of Permanent Representatives (COREPER). COREPER is part of the Council as it does the preparatory work for the ministers. The dossier of the 7th EAP is taken care of by COREPER I, because the environment is a relative technical area of competence. In contrast, COREPER II only deals with issues that are considered to be “high politics”, e.g. foreign affairs and justice and home affairs (Novak, 2017). COREPER serves as a forum where the Permanent Representatives are able discuss their views from their national governments. Unfortunately, there are no briefings from technical COREPER meetings available to the public.

However, there are reports from the informal trialogues published in the database of the Council of Ministers which are able to give an insight on what has been discussed so far. From the first informal trialogue planned on 22 May 2013, the following main outstanding issues were identified and reported on 28 May 2013:

1. Soils
2. Maximum sustainable yield levels in fisheries
3. Low Carbon Economy Roadmap (Council of the European Union, 2013c, p. 3-4)

As mentioned before, the Netherlands and some other Member States were not very keen on establishing a EU-wide soil policy, thus it could have been expected that it became one of the main outstanding issues. However, it was pointed out by Vettori (2017) in an interview that Spain, Italy, Belgium and Slovakia were interested to achieve such a framework (Appendix C). It is also remarkable to observe that Spain and Italy, countries who are, according to the literature, known as some of the laggards, are now seen to be proponents of more binding environmental regulations in contrast to the Netherlands.

Yet, the overall process of the creation of the 7th EAP was one step closer to an agreement as it was reported that the EP was about to accept and agree on the compromises provided by the Presidency: Biodiversity Strategy implementation, waste/landfilling and inspection support capacity at EU level. However, the position of the Council on the targets for sustainable consumption and production (SCP) were seen to be “disappointingly weak” by the EP (p. 4). This is another indication that the EP favors higher environmental standards than the other institutions. Nevertheless, the Irish Presidency requested that COREPER should look into the three issues above before the second trialogue planned on 6 June 2013.

From the report of the second trialogue, it became clear that the above outstanding issues were (about to be) resolved with the EP in the technical meetings beforehand (Council of the European Union, 2013d, p. 5). It was announced that the Presidency was able to provide a compromise text that would suit all stakeholders. In particular, the issue on soil policy (para. 23 in the Annex) was close to an agreement. In order to compare the three texts, they will be presented accordingly. First, the Commission Proposal in November 2012 was presented as follows:

23. To reduce the most significant man-made pressures on land, soil and other ecosystems in Europe, action will be taken to ensure that decisions relating to land use at all relevant levels give proper consideration to environmental as well as social and economic impacts. The Rio+20 Summit outcome called for a 'land degradation neutral world'. The EU and Member States should reflect on how best to make such a commitment operational within their respective competencies as well as to address soil quality issues within a binding legal framework[[16]](#footnote-16). Targets will also be set for sustainable land use and soil. (European Commission, 2012c)

The ENVI Committee of the EP amended the Proposal text in their First Reading as follows which included more detailed and binding suggestions:

23. To reduce the most significant man-made pressures on land, soil and other ecosystems in Europe, action will be taken to ensure that decisions relating to land use at all relevant levels give proper consideration to environmental as well as social and economic impacts. The Rio+20 Summit outcome, ***recognising the economic and social significance of good land management***, called for a 'land degradation neutral world'. The EU and Member States should, ***without delay***, reflect on ***how*** best to make such a commitment operational within their respective competencies as well as ***how*** to address soil quality issues ***using a risk-based approach*** within a binding legal framework ***drawing on relevant aspects of the Commission’s proposal for a directive establishing a framework for the protection of soil and amending Directive 2004/35/EC***[[17]](#footnote-17)***.******In addition, the pooling of knowledge and experience among Member States should be encouraged.*** Targets ***should*** also be set for sustainable land use and soil. [emphasis in original] (European Parliament, 2013a)

When comparing these two paragraphs, one may note that the amendments made by the EP included an explicit reference to the SFD and the response to new knowledge and possible risks to European soils. This again demonstrates the independency of the EP that suggests the more ambitiousness in the 7th EAP. In addition, the phrases called out for a collective European wide system to regulate the soils which was not preferred by the Dutch. Therefore, it is important to look at the final outcome to see whether or not the EP was able to hold their ambitious position when facing the representatives of the Council of Ministers. Following the report, this is the final Presidency compromise text which was ought to be accepted by all stakeholders:

23. To reduce the most significant man-made pressures on land, soil and other ecosystems in Europe, action will be taken to ensure that decisions relating to land use at all relevant levels give proper consideration to environmental as well as social and economic impacts. The Rio+20 Summit outcome **recognising the economic and social significance of good land management,** called for a 'land degradation neutral world'. The EU and Member States should reflect on how best to make such a commitment operational within their respective competencies. **The EU and Member States should also reflect as soon as possible on how** soil quality issues **could be addressed using a targeted and proportionate risk-based approach** within a binding legal framework. Targets **should** also be set for sustainable land use and soil[[18]](#footnote-18). [emphasis in original] (Council of the European Union, 2013d, p. 69)

The Council (or rather the Presidency) has been able to come to a compromise by *slightly* reducing the obligatory nature of the soil policy by suggesting that soil quality issues *could* be addressed, but still within that binding legal framework. In other words, the final paragraph shows a more nuanced view on the common soil policy in comparison with the EP amendments. It still does represent the EU-wide need to undertake action and protect the soils against potential risks, but the explicit reference to the SFD is removed. The weakening of the legal stringency of the paragraph could be considered a small win for the Dutch and other delegations who were not necessarily interested in achieving this. More importantly, this represents the synthesis of NF and LI assumptions since the needs of the EP and the Commission in contrast to the Netherlands and the Member States are combined into one of the many compromises. Regardless of the “solution” for the soil policy, another selection of outstanding issues arose:

1. Member States responsibility for the implementation of the 7th EAP
2. Low carbon economy investments
3. Fiscal measures to promote sustainable resource use
4. SCP indicators and targets (Council of the European Union, 2013d, p. 3-4)

Again, COREPER was invited by the Irish Presidency to look at those issues before the final trialogue planned on 19 June 2013. Point a) can be related to the debate on the national discretion of Member States and to the principles of subsidiarity and proportionality. Thus, it can be understood and perhaps it was also inevitable that point a) has become one of the remaining issues that had to be resolved. Subsidiarity and proportionality are the most important principles as they determine the dynamics within the EU which in turn make it a sensitive topic. According to LI, not all Member States are in favor of legally binding regulations when deemed unnecessary. This is also visible in the EAP: the EP and the Commission were concerned about the implementation of the environmental policies which according to them required binding measures, but some Member States opposed this view and wanted the 7th EAP to retain the “same legal intensity” like the 6th EAP (p. 3). Therefore, the Presidency suggested to all stakeholders to find a compromise for the “common responsibility” in the working groups.

Ultimately, after the third trialogue, it was reported that “an agreement on a possible final compromise was reached” on 21 June 2013 (Council of the European Union, 2013e, p. 2). The compromise package was found to include the suggested adjustments from all stakeholders in the wording, but was still seen to constitute “a balanced overall compromise on an ambitious and at the same time realistic 7th EAP” (p. 4). The Commissioner for Environment, Potočnik and the Commissioner for Climate Change, Connie Hedegaard (Denmark), welcomed the trialogue agreement for the new EAP in a memo (European Commission, 2013).

Summing up, this stage in the OLP has shown that in the beginning, all stakeholders were still holding on to their initial positions on the 7th EAP. However, when the informal trialogues were ongoing, the positions of the various parties moved closer together when discussing the outstanding issues. One key example is the paragraph on the soil policy. From this, it can be argued that the EP let go of its ambitious plans while the Netherlands and others felt necessary to accept the compromise. This section has chosen to highlight the soil policy since it was known that it has been an issue between the Netherlands and the Commission since 2006 as noted in chapter 4.2.3. Additionally, this empirics gained in this section demonstrate a synthesis of NF and LI behavior as all stakeholders came together to promote their interests and finally accept the compromise text by the Presidency. Now that the stakeholders have reached an agreement, the OLP continues with the formal requirements that are publicly accessible which is discussed in the next section.

### Agreement and Adoption

The final text firstly goes to the EP to be accepted by vote. This is considered to be a formality, because an agreement had already been reached beforehand. On 24 October 2013, the EP added one final amendment before adopting the agreement in its entirety by vote. 472 MEPs voted in favor, 81 MEPs voted against, and 21 MEPs abstained from voting (European Parliament, 2013b). After the vote in the EP, the document went to the Council for the last time. On 8 November 2013, it was suggested by COREPER to the Council to approve the EP’s position as an “A” item. When a proposal or document is considered to be an “A” item in COREPER, it can be assumed that the proposal can be adopted in the Council without debate by vote. Finally, on 15 November 2013, it was announced that the ministers in the ECOFIN Council configuration approved the EAP (Decision No 1386/2013/EU) (Council of the European Union, 2013e). Under qualified majority voting (QMV)[[19]](#footnote-19), all Member States voted in favor of adoption, except for the delegations of Hungary and Poland (Council of the European Union, 2013f, p. 2).

Their argument to vote against adoption can be derived from their statement on the adoption of the 7th EAP. They claimed together with the Czech Republic, that they did not agree with the stipulations in paragraph 33 of the Annex. They argued that this paragraph on the provision of a “clear legally-binding framework and target(s) … [on] emissions reduction, energy efficiency and renewable energy” was deemed to be inconsistent with earlier Conclusions of the European Council that stated that such a “climate and energy policy framework” would (only) be discussed after concrete Commission proposals (Council of the European Union, 2013g, p. 4). It should be noted that the EAP is not considered to be a “concrete Commission proposal” (or not concrete enough) as it only embodies the environmental objectives for a period of time. The inclusion of paragraph 33 that aims to create such a concrete framework was considered not to be in line with earlier statements. Therefore, this was not appreciated by the Hungarian, Polish and Czech delegations.

In the same document, Germany[[20]](#footnote-20), and the Netherlands together with France, Malta, Austria and the United Kingdom also presented a statement. They support the outcome of the negotiations as they claim that they showed “a maximum of flexibility” and provided improvements to the text. However, they stressed that they only support the wording with regard to a (potential) SFD “in the spirit of a compromise” (p. 3). Additionally, it is also claimed by the delegations that such legally binding soil protecting directives do “not represent a proportionate, adequate and forward-looking instrument for soil protection at [the] EU level” (p. 3). According to them, all European soils should be and are treated differently due to the different land uses. Efforts should be made in order to strengthen these measures instead.

Subsequently, they all stressed the principles of subsidiarity and proportionality. Even though the paragraph was weakened as a result of the informal trialogues, the Netherlands and the rest of these delegations were still not fully supporting the wordings. Why they decided to agree and vote in favor of the Proposal could be attributed to the collectivity of the EU and the necessity for a new EAP. The 6th EAP expired in July 2012 which seemingly made a concluding agreement of the 7th EAP in November 2013 more imminent and necessary.

In conclusion, the abovementioned Member States that have voiced their reluctance show that they were not in full agreement with the final EAP text. The provisions on the soils were reluctantly accepted, in particular by the Netherlands. This and the emphasis upon the principles of subsidiarity and proportionality reveal LI behavior from the rational actors. However, the moment that these Member States voted in favor of the EAP demonstrates NF conduct, because it was done in the spirit of a compromise. With the adoption of the Decision, the OLP is concluded. There have been several important highlights throughout this process which will be discussed in the next subchapter.

## Identification and Analysis of Key Events

The previous subchapter has reconstructed the OLP for the creation of the new EAP. From that, this subchapter has identified and seeks to explain a few characteristics within the procedure which are deemed to be remarkable to the outcome. The following are selected: first, the process of the OLP and how stakeholders were engaged, because it has become clear from the literature that the dynamics between the parties have been crucial for the development of environmental policies. Second, the final content of the 7th EAP with respect to the mandate of the Netherlands is analyzed, since it has become clear from the previous section that there were some crucial disagreements. Third, the creation of a common responsibility is explained in further detail, because it builds upon the principles of subsidiarity and proportionality which are essential to EU policy-making. The identification of these events allows for a better understanding of the coming about of the 7th EAP.

### Review of the Ordinary Legislative Procedure of the 7th Environment Action Programme

This section evaluates the overall process and the behavior of the stakeholders in the outlined coming about of the 7th EAP. The creation of the OLP took formally, from the consultation period onwards until the adoption about 20 months; from March 2012 until November 2013. The informal trialogue agreement was reached in about 15 months. This can be seen as relatively normal when comparing this information with the OLP of different dossiers throughout the EU. The average is concluded in about 14.4 months (Fox, 2014). Additionally, it has become more common for the EU institutions to reach an agreement in the First Reading. In the 7th Parliamentary Term of the EP (2009-2014), 87% of the proposals were adopted in the First Reading while the rest (13%) were approved in the Second Reading. Comparing this with previous Parliamentary Terms, it is a significant increase in First Reading adoptions: the approval rate of proposals in the First Reading was 74% in 2004-2009 and only 28.5% in 1999-2004 (Stie, 2012, p. 71; Logos Public Affairs, n.d., p. 2).

Hayes-Renshaw, Van Aken and Wallace (2006) argued that this can be attributed to the fact that the Council encourages a consensus for quality majority (p. 161). However, they did point out that those agreements mostly occur at the working group levels rather that at the ministerial level. Since documents at the COREPER level are not publicly accessible, it has been difficult to adequately assess the importance of and the events occurring at this level. In the case of the 7th EAP, there were three informal trialogues, but detailed reports of the Working Group meetings were also not published. Therefore, the empirical analysis above lacks this data. This is also noted by Häge and Naurin (2013), who argued that early agreement allows for decision-making efficiency, but it is more likely to “reduce the transparency and accountability of EU legislative politics” (p. 968).

In sum, this means that the coming about of the 7th EAP can be seen as regular in comparison with other legislative documents and according to other sources. This section continues with an evaluation of the stakeholders in this procedure. First, it is known that the informal trialogues were led by the Presidency of the Council of Ministers. The Belgian and Danish Presidencies have called out the EU to create a new EAP. But most of the work was done by the Irish delegation, who also remained active in finishing the agreement even after the end of their term as Presidency following Vettori’s (2017) insights (Appendix C). Therefore, it could also be argued that the Presidency plays a larger role in the negotiations than the Member States and the Commission do. After all, they organize the (informal) meetings and they make sure that an agreement is eventually reached.

However, one should note that even though they have had a leading position, it does not mean that they have been able to use this advantage to push forward their own national interests according to Häge and Naurin (2013, p. 968). The authors came to this conclusion through the results from their study on the effect of co-decision on Council decision-making using the data from Presidencies and dossiers between February 2003 and November 2009. From the Presidencies’ tasks and behavior in the coming about of the 7th EAP, this thesis argues that they should therefore be considered as an organizer and enabler rather than a dominating force in the process. Only when the countries that held Presidency are considered as (individual) Member States, then their behavior could be considered as LI, because they were leading the 7th EAP negotiations. This is supported by the behavior from the Belgian and Danish Presidencies as they encouraged the creation of a new EAP. However, since the Irish Presidency was predominantly active with organizing and preparing the meetings, it could be argued that it was their duty to do so.

For this research, the position of the Netherlands was the most relevant to research due to the history and experiences in the past EAPs. The public documents as provided by the State display the Dutch interest with regards to the creation of the 7th EAP. The reports from the (informal) meetings with the environmental ministers also show what has (not) been achieved. However, limited to no information was public concerning the COREPER meetings. It also does not elaborate on the Dutch position to finally or rather reluctantly agree with the terminology on the soil policy other than it was out of the spirit of a compromise.

Nonetheless, the Dutch have been able to position themselves as a Member State that prioritizes improving the implementation and integration of current environmental regulations to benefit the economy instead of creating newer and (legally) binding EU-wide rules throughout the OLP. This demonstrates the rational character that LI prescribes for Member States. A better implementation of existing rules was deemed to benefit the Dutch society and economy. Thus, in comparison to its contributions to the 5th EAP, the Netherlands does no longer take the leading role within EU environmental policies. More importantly, the principles of proportionality and subsidiarity have been referred to several times in order to indicate the boundaries of the Dutch delegation to the Commission. The Netherlands did manage to find itself in a blocking minority within the Council which strengthens their position against the rest of the Member States who were in favor of more EU environmental regulations. From a Member State perspective, LI remains to sufficiently account for its behavior and priorities during the coming about of the 7th EAP.

The other stakeholder of main interest was the Commission. In contrast to the first five EAPs which were considered to be ambitious, the Commission switched its approach starting with the 6th EAP by being less ambitious but aiming to be more effective. As a result, the Commission wanted to achieve an EAP that has limited objectives in order to suit the preferences of the Member States and the environment. As a supranational institution, the Commission is delegated authority from the national governments and its legitimacy has to be acknowledged. With the creation of such a mandate – the collective protection of the environment as it affects the European economy, health and society – the Commission wants to emphasize the need to create legislation on the EU level. This is considered to suit the NF narrative more as it assumes the supranational elite to upgrade the common interest and as it builds upon previous integration efforts.

Finally, the EP is created to check the other institutions as it represents the European people. The MEPs from the ENVI Committee were also present in the trialogues. Even though the EP started off more ambitious than the Commission in the adopted amendments and EP Resolution, it has become clear that the this institution was generally willing to be compliant with the wishes of the Council in the informal trialogues according to the reports of the Council. However, it is unknown how and why the EP representatives decided to do so. The grand theories lack a sufficient explanation on other institutions than its main actors. It is only known that LI is accused of downplaying the institutions while NF is focused too much upon the supranational Commission.

Regardless, throughout the whole OLP, tendencies of LI and NF were strongly visible. As this thesis expected, a synthesis of the grand theories was prevalent. This demonstrates that both theories are able to explain a part of the whole narrative, since they cannot fully account for each and every action of their preferred actor. When Member States are observed to take the lead in negotiations, LI argues that it is done for to the economic benefits that they gain as they decide on supranational legislation. The opposite is valid when the supranational institutions are seen to be the ones setting the agenda, which then is considered to be NF behavior. This section has focused on the overall procedure. What is needed now is a closer look into the content is necessary in order to adequately assess the importance of the 7th EAP.

### Content of the 7th Environment Action Programme

The process of the creation of 7th EAP can thus be seen as a common bureaucratic exercise following the above section. This section addresses the content of the EAP with regards to the Dutch mandate. Content-wise, Liefferink (2017) argued in an interview that the EAPs have a relative “vague status” (Appendix B). Even though they are technically legally binding, because they have been adopted through the Ordinary Legislative Procedure, they are merely policy plans with objectives. According to him, this and the vagueness tend to make Member States comply more easily with the terms. It can also be attributed to the generic wording as criticized by Homeyer et al. (2011) (p. 13). However, Van Tol (2017) claimed in an interview that it is also difficult for Member States to take a position to such “abstract plans” (Appendix A). Again, the EAPs do not contain strict numbers and regulations. They merely act as an umbrella that gives legal basis in order to create more substantive legislation to meet those objectives.

Even though the EAPs are arguably vague, they do hold Member States accountable for achieving binding objectives. Therefore, it does not mean that the agreement was easily achieved. From the Dutch documents and the interview with Van Tol (2017), it became clear that the Netherlands were not keen on creating a common and binding soil policy; neither taking the form of being included in the SFD nor being stipulated in the 7th EAP. Additionally, it turned out that the soil policy was not only a discussion point for the Netherlands, but also for Germany, France, Malta, Austria and the United Kingdom. The soil policies have been a controversial issue within the EU since 2006 with the presentation of the SFD. Due to the long pending status of the proposal, it was finally withdrawn by the Commission in 2014, because it was not able to gain a qualified majority in those eight years (European Commission, 2016e). This can thus be seen as a victory to the blocking minority and especially to the Netherlands.

According to the BNC Fiche, the Netherlands also wished to see voluntary criteria on the stipulations for sustainable cities. They were motivated by the fact that those criteria should remain a local and national competence instead of being laid down at the EU level. The final outcome on paragraph 90 of the Annex has the following addition (in emphasis) that can be considered as an acceptable compromise for both stakeholders. This suggests that the sustainable cities criteria will be developed by the Member States and other interested stakeholders rather than a stringent set of criteria which is presented unilaterally from the Commission.

90. (…) The development of, and agreement on, a set of sustainability criteria for cities, ***informed by consultation with Member States and other relevant stakeholders*,** would provide a […] reference base for such initiatives and promote a coherent, integrated approach to sustainable urban development. (Council of the European Union, 2013e, p. 78)

In other words, the Netherlands and other concerned parties “won” (less binding or non-binding) criteria which is arguably more beneficial to their interests which could then be explained from a LI perspective. The remaining content of the 7th EAP was mainly based upon the Impact Assessment of the 6th EAP. The key problems were identified which therefore needed further legislation to fix those problems. Subsequently, the Commission argued that the Proposal was meant to be providing added value to policies in the field of the environment as seen in the following points:

* Providing a strategic framework for environmental policy in the EU;
* Ensuring complementarity and coherence;
* Ensuring predictability and a level playing field;
* Stimulating action at all levels of governance. (European Commission, 2012b, p. 3)

What is striking is that the Netherlands also wanted to achieve a level playing field with the creation of the 7th EAP. The Dutch are a proponent of sustainable purchasing which means that products should meet certain environmental standards (Van Tol, 2017, Appendix A). Therefore, it can be argued that the Dutch value the workings of the market while aiming to do sustainable business. Furthermore, they wished to see a better implementation and integration of the objectives. These points are all present in the 7th EAP which means that the Netherlands seemed to have upheld its mandate quite well. However, this thesis is not able to make an assessment about the priorities of the other Member States. In other words, it is difficult to find out how close or how far away the positions of all Member States in comparison with the Netherlands were. At least it is clear that the Dutch supported the creation of a new EAP when the Commission presented the proposal, but remain reluctant to (legally) binding measures together with the blocking minority.

Therefore, with the empirics gained previously, the outcome of the 7th EAP and the positions of Netherlands, the Commission, the Presidency and the EP can be illustrated as follows in

Figure 3 as seen in chapter 3.5:

|  |  |
| --- | --- |
| NL Presidency 7th EAP Commission EP | |
|  | |
| **National discretion of MS**  Voluntary criteria  Fulfillment of national goals | **Commission-led harmonization**  Binding criteria  Upgrading common interests |
| Figure 3. Continuum of preferences on creating EU environmental legislation with positions. | |

In sum, the Dutch were seen to prefer voluntary and non-binding criteria and did not want any more legislation until this is deemed necessary. They are supporting, aside from the binding soil policy and criteria on sustainable cities, the rest of the objectives of the EAP due to their own national interests, which is why they are not fully on the left side. Plus, it was out of their national interest to strengthen the implementation of environmental policies. Even though the Commission wanted to see harmonization in the form of more binding rules, the EP seemed to be more ambitious in this which is why the institution is put on the far right side of the continuum. The Presidency was aiming to join both sides into one document which is why the Presidency is positioned at the middle of the continuum.

This thesis argues that the 7th EAP can be placed on both sides of the continuum since both aspects are visible in the outcome. However, it can be considered that the 7th EAP can be placed slightly more on the right side, because of the many other Member States who were in favor of the (more binding) stipulations. Additionally, it is the 7th adoption of the EAP which means that and it continuous integration has been taking place. Nonetheless, the 7th EAP shares some of the assumptions on the left side, since it still fulfilled the national goals of the Netherlands and other Member States such as the implementation. The principles of subsidiarity and proportionality have been used numerous times by the Dutch and the blocking minority to indicate the legislative borders of the EU. This would suggest that the Member States have been influencing the final outcome. This is discussed in further detail in the next section.

### Creating Common Responsibility

The field of the environment is a shared competence and thus requires participation from the Member States and the institutions to create legislation. Subsidiarity and proportionality are the guiding principles concerning EU policy making. As mentioned before, the Commission insisted on creating a coherent narrative and establishing common responsibility for the 7th EAP (Vettori, 2017, Appendix C). However, it does not automatically mean that everyone wants to achieve the same. In other words, even though the environment affects each Member States indiscriminately and beyond, it does not necessarily mean that everyone has the same view or shares the same approach in order to combat climate change. Therefore, as supported by the empirics, Vettori (2017) claimed that the ambitiousness of Member States depends on their national interests (Appendix C). Clearly this would be more in line with LI as this argues rational cost-benefit calculations form the foundation in the national decision-making process of Member States.

For instance, the SFD was preferred by Belgium, two known “laggards” Spain and Italy, and one CEE country, Slovakia, but not by the Netherlands and the blocking minority as observed previously. This is a new development in the literature: it was known that the laggards were against binding rules or high environmental standards in the past, but now it seems that they have switched environmental policy positions. A possible explanation would be that the proponents of the SFD did not have a national soil policy, which is why a EU-wide regulation was useful as it could put this in place (Heck, 2006). This is also conforming to the stipulations of LI. In contrast, the Netherlands had already established one which is why the SFD was deemed to be unnecessary and to be exceeding the principles of subsidiarity and proportionality, even though it would benefit other Member States. The Dutch point of view is the other side of LI that does not want further integration when considered to be redundant.

However, the Member States and the institutions did manage to agree upon the necessity to create a new EAP and to further discuss details in informal trialogues. This can also be seen in the statement provided by the blocking minority, stressing that they agreed in the spirit of a compromise. The possibility existed that they could have blocked the adoption completely by voting against the proposal like Poland and Hungary, but this would send out a negative signal. Therefore, it can be concluded that the blocking minority do collectively support the rest of the EAP and the need for EU environmental policies. Regardless of their positions, almost all Member States eventually agreed which is why this is arguably a NF development.

Another example which is more explicit on the principles of subsidiarity and proportionality is the acknowledgement of the common responsibility. The Commission wished to see that was explicitly laid down in article 3 of the Proposal:

Article 3

1. The Union and its Member States are responsible for ensuring the delivery of the priority objectives set out in this programme. They shall pursue a coherent approach to addressing the challenges identified. Action shall be taken with due account of the principle of subsidiarity and at the level best suited to achieving the priority objectives and related outcomes set out in this programme.
2. Public authorities at all levels shall work with businesses and social partners, civil society and individual citizens in implementing this programme. (European Commission, 2012c)

This article demonstrates the Commission’s aims to stress that the environment should be protected on the EU level while involving all relevant actors to contribute. It can also be interpreted that the mandate of the Commission – the environment as a shared competence as found in art. 4(2) of the TFEU – is emphasized and that they remain a relevant institution. This can be considered as one of the supranational characteristics of the Commission as stipulated by NF. The institution is leading its own life and intends to maintain that with this stipulation. In order to compare this with the amendments from the informal trialogues, the following extract is presented from the adopted Decision in which Member States have negotiated a different wording:

Article 3

1. The ***relevant*** Union institutions and the Member States are responsible ***for taking appropriate action, with a view to the delivery of the priority objectives set out in the 7th EAP***. Action shall be taken with due account of the ***principles of conferral, subsidiarity and proportionality, in accordance with Article 5 of the Treaty on European Union.***
2. Public authorities at all levels shall work with businesses and social partners, civil society and individual citizens in implementing the ***7th EAP***. [emphasis added] (Eur-Lex, 2013)

As one may note, art. 3(1) notably differs. As the version in the Proposal stresses the *equal responsibility* of all EU institutions and the Member States to achieve those goals *together* to the best of their abilities, the version in the adopted Decision aims to do so within the principles of conferral, subsidiarity and proportionality. Thus, it can be understood that the Member States wished to retain their national powers in order to decide how action should be undertaken. Additionally, only the *relevant* EU institutions are involved to do so. Regardless of the discussions on the soil policy and sustainable cities presented previously, the explicit addition of those principles demonstrate that those main debates are therefrom derived. This indicates that Member States, especially the Netherlands, wished to see their own priorities represented in the EAP rather than those of the Commission.

Despite the embodiment of common responsibility into the 7th EAP, it has become clear that this spirit of compromise was not able to prevent Hungary and Poland from voting against the agreement of the informal trialogue in the Council. Regardless, the outcome is that the 7th EAP is in place with a relative large majority supporting it. This also suggests that the main debates in the coming about of the 7th EAP are all related to the principles of subsidiarity and proportionality. In other words, this could also be interpreted that the outcome of the negotiations is LI of nature, because these Member States voted against because the 7th EAP was not benefitting their national interest.

In conclusion, the coming about of the 7th EAP displays the dynamics of the Member States and the institutions in creating policy. The 7th revision of the EAPs demonstrates that the environment remains a dedicated field of competence. The current EAP does not only represent the efforts from the stakeholders during the OLP, but also the lessons that were learned from the previous six EAPs. This could then be interpreted that the process of creating the 7th EAP is NF. From the empirical analysis, this can be illustrated in

Figure *4* in the second continuum from chapter 3.5:

|  |  |
| --- | --- |
| EAPs | |
|  | |
| **Weak policy plans**  Lowest common denominator  Not significant for integration process | **Substantive policy plans**  Serious improvements  Focus on integration and implementation |
| *Figure 4*. Continuum of the outcome of EU environmental policy negotiations with position of the EAPs. | |

This thesis argues that the scope of the EAPs can be found on both sides of the continuum, albeit relatively more on the right side, because it is the positive consolidation of views from different stakeholders throughout the Programmes. There have been reluctant Member States, Southern and CEE countries in the past, Netherlands and others today, but the EAPs nonetheless embodies the whole EU’s efforts to create substantive policy plans. Previous EAPs were ambitious, but were not able to make a great impact upon the implementation thereof. However, it is acknowledged by all stakeholders that the 7th EAP should be in place to improve and achieve this. Therefore, this thesis concludes that the EAPs are not weak policy plans, but *intend* to be substantive despite their actual vague status. With this, this thesis concludes the empirical analysis. From the insights gained so far, the thesis will close the chapter with the discussion of the hypotheses.

## Discussion of Hypotheses

Lastly, this final section aims to find out whether or not the four hypotheses remain valid after the empirical analysis presented in the previous sections. The first two hypotheses were related to the position of both the Netherlands and the European Commission, while the last two hypotheses were related to the outcome of the negotiations of the 7th EAP and the impact thereof on European integration. This thesis sought to find out to what extent the predictions or assumptions of liberal intergovernmentalism and neofunctionalism were visible in the coming about of the 7th EAP. The first hypothesis was derived from LI:

H1: *The Netherlands are, as a representative of the Green Sextet Member States, within rational constraints, the driving forces of outlining the 7th EAP, because they can gain from EU-wide environmental protection policies.*

This thesis concludes that this hypothesis is partially confirmed. The mandate of the Dutch delegation included that they wanted to create a level playing field with “non-binding” agreements while limit the creation of new binding criteria. Because environmental policies are regulated on the EU level, it was important for the Netherlands to conclude an agreement that included the better integration and implementation of existing rules for the domestic interest.

Together with the blocking minority, that actually did not include any member from the Green Sextet, the Netherlands have shown its resistance towards the binding character of the soil policies and sustainable cities. This demonstrates that the Dutch have been able to impact the outcome of the 7th EAP: the Netherlands have been able to “gain” by weakening the positions of the Commission and the EP. Moreover, it can be understood that the Netherlands can no longer be considered to be the driver in environmental protection it used to in the previous EAPs. Therefore, it can also be argued that the role of the Netherlands within the negotiations was relatively simple since the Dutch delegation, despite the controversies, remained to vote in favor of the Proposal.

Finally, the gains from the EU environmental policies can be related to the Dutch economic gains, because the Netherlands emphasized the better implementation of the current legislation. As stated previously, LI attributes integration to national economic interests and globalization which is why it can be considered beneficial to the Netherlands to ultimately commit to vote in favor of the 7th EAP. In sum, regardless of the Netherlands resisting binding EU mechanisms, the Dutch remain to be in the interest of EU environmental protection following its cooperative behavior.

The second hypothesis was derived from NF and attached a larger role to the Commission than to the Member State(s):

H2: *Due to spillovers, the European Commission is, as a representative of the EU, the driving force of outlining the 7th EAP, because it is benefiting their position and legitimacy.*

This thesis argues that this hypothesis is also partially confirmed. It should be acknowledged that the Commission has a strong mandate, especially concerning environmental protection. It is known that the Commission is providing the EU with ambitious proposals, but in the case of the 7th EAP, it opted for a set of limited objectives. The Proposal was generally welcomed by all stakeholders, because it represented their main concerns. However, the document received many and more ambitious amendments from the EP and experienced resistance from Member States during the First Reading and the informal trialogues. In addition, the preparations for the creation of a new EAP initially came from a Member State, Belgium. Regardless, the Commission has shown that it is able to create a Proposal that is motivated by the argument to benefit all stakeholders. Therefore, this observation can serve as a NF assumption.

It is difficult for Member States to make an impact on climate change when they are on their own which is why the “Commission route” is often preferred by some States. Either because they really want to achieve an EU-wide agreement on environmental protection (Belgium and Denmark) or because they do not have the domestic support to create such legislation themselves (Spain, Italy, CEE states) which is why they turn to Brussels. Therefore, this thesis acknowledges the enabling role that the Commission has played, but this thesis does not view the Commission as the driving force for the EAP. In the end, it is decided by the Member States to follow the Commission or not. Moreover, most of the actual work was done by the COREPER, the Council (Presidency) and the EP.

Therefore, from the partial confirmation of the above hypotheses, it can be concluded that the Netherlands and the Commission both have been able to influence the outcome of the 7th EAP negotiations to a certain extent. They both had to give in to each other’s demands for the greater good and to reach a consensus. The illustrative evidence of the partial confirmation of the above hypotheses is also presented in

Figure 3. As expected, there is an identification of both pathways in the coming about of the 7th EAP. With this, this thesis concludes that both LI and NF are able to provide (partial) explanations to the different events and behavioral acts of the main actors during the OLP.

The third hypothesis considers that the EAPs are merely small episodes or outcomes in the European integration process in which the Member States, like the Netherlands exerts its influence:

H3: *The EAPs are seen as a “snapshot” of European integration which means that the outcome of the 7th EAP mainly reflects the preferences of the Green Sextet led by the Netherlands.*

Even though there are not many groundbreaking outcomes, the environment remains a stable policy domain in which all Member States and institutions share a certain responsibility. As the latest EAP is the already the 7th revision of the EU’s environmental policies, it can be understood that the Programmes each do not exemplify a “snapshot” as LI would assume. All stakeholders consider the EAPs to be contributing to the environment. Moreover, substantial attention is given to interim and final assessment reports in order to improve upon the EAPs and update the direction of the current EAP to new information. Therefore, the first part of the hypothesis is disconfirmed.

However, the thesis argues that the outcome of the 7th EAP negotiations does not only represent the position of the Netherlands. They have merely been able to “weaken” the soil policy with the blocking minority by stressing the principles of subsidiarity and proportionality. However, there were other parties who would have liked some provisions in the 7th EAP to be stricter. From the empirical research, it has become clear that the Netherlands is also not necessarily leading the priorities of the Green Sextet or being able to fully exert its dominance in the policy field. With reluctance, it had to agree to the full content of the 7th EAP. Therefore, the second part of the hypothesis is partially disconfirmed, because the Netherlands has been able to voice its discontent with binding frameworks.

In sum, this thesis argues that H3 is neither fully disconfirmed nor fully confirmed, albeit relatively more disconfirmed than confirmed. This thesis does suggest that the outcome of the 7th EAP mainly revolves around the principles of subsidiarity and proportionality. In contrast to the Netherlands, some Member States did not feel that those principles were exceeded which is why they encouraged more binding provisions. It was out of their own interest to support these stipulations. Finally, the last hypothesis views the EAPs as continuous cycle, because they are consistently renewed and improved upon:

H4: *The EAPs are seen as a routinely renewed piece of legislation which is a means of delegating authority to the supranational elite and the confirmation of the European integration process. Additionally, there is incremental progress visible in the 7th EAP with respect to the previous EAPs.*

In contrast to H3, the final hypothesis can be seen as confirmed. The (creation of the) next EAP was inevitable, especially with the input received from Belgium and Denmark. Additionally, the Commission has learned from previous EAPs and thus demonstrates incremental progress by identifying the problem areas and looking for solutions which is demonstrated by the Impact Assessment report. The Commission took the opinions from Member States and other relevant stakeholders into consideration before the presentation of the Proposal. The Commission also explored different policy options, but creating a new EAP and stressing the fact that protecting the environment is key for the EU and the economy can be seen as one of the main impetuses for Member States to comply with the creation of the 7th EAP. The field of the environment is a consistent policy area and remains so due to the specific goals as laid down in frameworks and roadmaps (the 2020 climate & energy package, the 2030 climate & energy framework, and the 2050 low-carbon economy) and in the UN Sustainable Development Goals.

Furthermore, as NF prescribes that the Commission remains a supranational body with its own will, it can be observed that this institution aims to maintain its relevance and legitimacy with the creation of a successful EAP. The process of the OLP is an observation that the European integration is visible within the field of the environment. The (dis)confirmation of the above two hypotheses are also illustrated in

Figure *4*. With this, the thesis concludes the empirical chapter.

# Chapter 5: Conclusion



## Summary

Environmental policies in the EU are arguably a stable field of competences in which substantive legislation remains to be created. It allows for Member States and the EU institutions to collectively undertake action to combat climate change and protect the environment. This mandate has paid off and results in a leader and mediating position for the EU on the global stage. Additionally, it is inevitable that the economy and the environment have become interdependent upon each other. The workings of the Internal Market are dependent upon environmental regulations for services and goods. Environmental policy integration nowadays plays a large role in other European fields of competences such as fisheries, agriculture, transportation and more. Therefore, it has become necessary for all stakeholders to commit to the implementation and integration of such policies.

The 7th Environment Action Programme is the latest policy plan which sets out environmental objectives which have to be met in 2020. This allows for the creation of more substantive legislation in order to meet those goals. However, because it is only composed of objectives and not of concrete measures, it is understood to have a relative vague status and generic wording. Regardless, this thesis has found out that the negotiations for the 7th EAP were characterized by the principles of subsidiarity and proportionality. These principles are seen as the limits set by Member States to the powers of the Commission and the EU. Some Member States, especially the Netherlands, found that some provisions were exceeding those principles. Others, for example the EP, found that some stipulations were not stringent (enough) and encouraged more binding and ambitious ones in the negotiations. Therefore, it is out of the Member States’ national interest to be in favor or to oppose certain provisions. For instance, it deemed to be unnecessary and inefficient for the Netherlands and the blocking minority to support a legally binding soil policy, but it was ought to be beneficial for Spain, Italy, Slovenia and Belgium.

This thesis has researched the Netherlands as one of the two key stakeholders in the 7th EAP negotiations. According to the literature, the Dutch were known to have and pursue high environmental standards as a Green Sextet country and that they have greatly influenced the past EAPs. Therefore, it was one of the research aims to find out whether or not the Dutch remained to do so. In the empirical analysis, it has become clear that the Netherlands preferred to maintain its national discretion towards the environment, e.g. it wished to see non-binding and voluntary stipulations in the 7th EAP. This was because its mandate was based upon the high population density and the effects of EU environmental regulations upon its economy. Therefore, this thesis argues that the Netherlands can no longer be seen as one of the driving forces for EU environmental protection. Additionally, it can be argued that the principles of subsidiarity and proportionality prove to be of a higher value for the Netherlands than the content of the 7th EAP.

The other key stakeholder was the European Commission. This supranational institution is known to set ambitious for the rest of the EU. The analysis of the past EAPs show that the Commission had great intentions and expectations with the EU environmental policies. However, in reality, this did not work out as planned as most of the objectives were not met. With the 6th EAP, they changed their approach by opting for a less ambitious and more effective plan. Despite this shift, some problems arose and the Commission wished to resolve this with the 7th EAP. Additionally, as a supranational body, it was in their interest to promote the common interest and to prove that they remain a relevant institution. This thesis argues that the Commission remains to prove its status and legitimacy.

In sum, the EAPs are not necessarily groundbreaking due to their relative vague content. Nevertheless, the routine negotiations of the EAPs since 1973 make it a positive field of competence that aims to join the interests of all stakeholders including the public and NGOs in creating environmental policies. The points that were deemed to become obstacles during the negotiations of the 7th EAP are arguably related to the wishes of the Dutch to retain their national discretion to the implementation of policies while the Commission wanted to promote the common interest as a means to harmonization.

## Answer to the Research Question

This thesis aimed to answer the following research question:

*How did the 7th European Environment Action Programme come about and to what extent was it able to converge the (national) interests of the Netherlands and the European Commission?*

The answer to this question is two-fold. First, this thesis argues that the creation of 7th EAP poses several notable characteristics. It is known to roughly take the same amount of time for every other proposal within the competences of the EU. The reconstruction of OLP shows that the 7th EAP has demonstrated the collective acknowledgement of the need to create a new Programme while it manifests the purpose and unity of the EU which are seen as an underlying motive. This is observed by the common position of the Council and the collective decision to hold informal trialogues. Finally, the general and flexible nature of the EAPs, the history of policy-making in the field of the environment, and the leading role of the Presidency have contributed to a successful conclusion of negotiations which could also be considered as another common bureaucratic exercise.

Second, given that the outcome of the negotiations have been largely affected by the principles of subsidiarity and proportionality, this thesis argues that the positions of the Netherlands and the Commission have come closer together due to the cooperative nature of the OLP. These allow for the “give-and-take” during the negotiations by the stakeholders. On the one hand, the Netherlands were considered to be one of the leading countries in the field of the environment, but it turned out that they were no longer focusing on ambitious environmental goals. On the other hand, the Commission wished to maintain its position by upgrading the common interest. As seen in

Figure 3, the Dutch were considered to be on the left side of the continuum with a preference for “national discretion” while the Commission was positioned on the right side suggesting EU harmonization.

However, the upholding of their mandates and the consolidation thereof were dependent upon other stakeholders in the process. This is especially because the OLP requires all institutions to take part in creating EU legislation. From the Commission Proposal onwards, it requires the full cooperation and commitment of the Council of Ministers and the European Parliament in the First Reading. The Presidency of the Council of Ministers played a great part in enabling the informal trialogues in order to create an agreement. The European Parliament intended to contribute to a more ambitious EAP and provided a substantive number of amendments to the Proposal.

Despite the cooperative aspect, there have been clashes between and within stakeholders identified in the OLP. For example, even though an initial common position of the Council was presented by the Danish Presidency, one can certainly see conflicting interests from the reports from meetings in COREPER and the trialogues. Other Member States than the Netherlands and the blocking minority were encouraging a binding legal soil policy. Therefore, it was the task of the Presidency to create a compromise which connects both sides.

In sum, the agreement to the Presidency compromise text reveals that the Netherlands and the blocking minority were slightly reluctant and that the EP was willing to compromise on their ambitious amendments. Due to blocking minority’s initial discontent with the binding soil policy, it is also considered to be a victory for the blocking minority that the SFD failed to come through and was finally withdrawn by the Commission in 2014. This is also an indication of the political strengths of the Member States.

Therefore, from the empirical analysis, this thesis argues that the coming about or the procedure of the 7th EAP can be considered to be having a NF nature, while the outcome thereof seems to be LI. The process is NF, because all stakeholders were cooperative. A large majority in the EP and in the Council voted in favor of the 7th EAP. In addition, it was not a highly politicized topic, and an informal trialogue agreement was reached timely in consensus. However, the outcome is LI, because it builds upon the principles of proportionality and subsidiarity. And for many Member States, this determines to whether to oppose or accept certain provisions. Finally, it should be understood that the Netherlands do not oppose environmental protection, but merely the European approach that was generally accepted by other stakeholders.

## Theoretical and Societal Implications

This thesis has found out that neither liberal intergovernmentalism nor neofunctionalism were able to fully account for the dynamics in the process of the creation of the 7th EAP. They merely focus on the role and leadership of either side (Member States or Commission), but do not view them as equal. The former attaches a larger role to the Member States and the latter to the EU institutions. Even though the theories have different views, they should not be seen as contradictory to each other. Instead, LI and NF should be seen as complementary to each other in order to understand and hypothesize European integration. For the purpose of the thesis, four hypotheses were tested in the analysis in order to find out to what extent the grand theories are able to explain the coming about of the 7th EAP.

The first two hypotheses were related to the mandates of the Netherlands and the Commission and whether or not these have become prevalent in the outcome. From the analysis, this thesis concludes that both the Member States and the Commission (with the EP) share the relatively same responsibilities in creating justifiable and proportionate legislation. Therefore, this thesis rejects the assumption that either theory has the most accurate predictions on this topic. This also results from the partial (dis)confirmation of the four hypotheses in the previous chapter. The Netherlands did not solely dominate the negotiations (H1) while the Commission was not powerful enough to encourage every Member State on board for the Proposal (H2). However, other assumptions of LI and NF were observed in the evidence. For LI, economic reasons and domestic interests were predominating the Dutch mandate. For NF, the spillover effects were visible. For instance, it can be attributed to functional spillover that economic integration in the Internal Market needed more harmonization that would take form in EU-wide environmental standards and policies.

The last two hypotheses were related to the integration within the field of environmental protection and the significance of the outcome of the negotiations. This thesis found out that the Netherlands did not heavily influence the 7th EAP as hypothesized in H3, but the 7th EAP does represent the wishes of the Member States as stipulated by LI. Lastly, H4 assumed that the EAPs are routinely renewed and demonstrate incremental integration. This thesis confirmed this hypothesis which means that both grand theories were partly visible throughout the OLP.

However, LI and NF, as ideal types, are not able to fully account for the events that occurred in the case of the 7th EAP. This thesis argues that NF might have a too positive view while LI might have a too sober view upon European integration. More importantly, the main criticisms towards LI and NF remain valid; they each focus too much on their main actor and as a result, they disregard other important stakeholders within the EU. However, the partial confirmation of the hypotheses corroborates the usefulness of the grand theories in EU environmental policies in contrast to the middle-range theories such as new institutionalism and policy networks.

Regardless, the results of the conducted research contribute in understanding EU environmental policies. The Commission has learned from the Impact Assessments from the 6th EAP which allows for a serious mandate and justifications for the renewal of the EAPs, a relative stable Proposal and finally, the successful negotiations of the 7th EAP. Additionally, it has become clear that the laggards are moving away from their “traditional stance” on environmental policies. They do no longer block high environmental standards, but they have become the main proponents in contrast to the former policy pusher the Netherlands.

## Limitations and Suggestions for Further Research

This thesis aimed to reconstruct the positions of the Netherlands and the Commission as closely as possible. However, it has been hindered due to the lack of access to closed documents, especially since most of the agreements were reached in the Working Parties and COREPER meetings. Consequently, the thesis was unable to find out how and why stakeholders decided to drop or lower their mandate in order to reach a consensus. Fortunately, the conducted background interviews have been able to relatively close this gap.

Furthermore, this thesis has specifically opted to analyze the position of the Netherlands and the Commission which means that due to the scope of this research the position of other Member States remain unknown. Thus, the analysis of other perhaps more environmental favorable Member States, could serve as a future research goal. Given that the Netherlands have changed their position towards EU environmental policies, it is also advised to research the political landscape in the country. The political and/or governing parties might have influenced the position of the Dutch government.

This section also intends to briefly review the research methodology. It is a qualitative single-case study which results in low generalizability, but in high internal validity. The empirics gained through this research allow for rich inferences, but remain exclusively for this case. Research bias may have influenced the outcome(s) of this thesis. Therefore, this thesis suggests that the position of the Presidency is worth further research and advices that interviews with insiders or representatives of the Working Groups should be conducted in order to provide the full picture on the 7th EAP. Yet, the results in the thesis may serve as a starting point for further research into the field of recent environmental policies and politics.

## Final Remarks

As it is known that there is a debate and interlinkage between the economy and the environment, it makes the 7th EAP and the field more interesting to research. The accession of more Member States into the EU who have to comply with the *acquis* results in an economic impulse into the Internal Market. Additionally, sustainable development and green products have become acknowledged to improve the economic competitiveness. More importantly, the discourse on environmental has significantly changed. Due to international (geo)political developments, the Paris Agreement, the UN Sustainable Development Goals, it has become more crucial to discuss and take action on climate change. More money is given towards and investments are made in research and renewable energy sources. In addition, the 7th EAP was promoted as a means to improve the economy after the economic crisis

Nonetheless, this thesis argues that there is an advancement of environmental policies in the EU due to the commitment of all stakeholders to acknowledge the necessity of and the continuation of an overarching environmental policy plan. Additionally, it is seen that the Commission took all concerns, from the public, environmental NGOs, the Member States and the other institutions into consideration before the presentation of the Proposal. The Commission provided accompanying documents that elaborated upon the justifications to do so. This demonstrates the cooperative mechanism of the Commission. Furthermore, while ambitions and intentions (as seen in the previous EAPs) can be acknowledged and easily agreed upon predominantly due to the vagueness of the EAPs, it comes down to the implementation that turns words into action. Therefore, it is an improvement to the policy field that (more) attention is given to the implementation in the 7th EAP.

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# Appendices

## Appendix A: Interview with Renske van Tol

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| **Interviewee:**  **Date:**  **Duration:**  **Location:**  **Set up:**  **Language:** | Renske van Tol (senior policy advisor)  31 May 2017  1 hour  Ministry of Infrastructure and Environment (“Infrastructuur en Milieu”), The Hague  Informal background interview  Dutch |

Ms. Van Tol has been working for the environmental department of the Netherlands (Previously VROM, now IenM). She previously worked for the directorate for International Affairs and now works within the directorate for Climate, Air and Noise at the Ministry of Infrastructure and Environment. She was responsible for setting up the team of experts from various directorates within different ministries who provided input for the Dutch position in the negotiations. This team included people from the Ministry of Economic Affairs (“Economische Zaken”) and the Ministry of Developmental Cooperation (“Ontwikkelingssamenwerking”).

According to her, the 7th EAP, in comparison with its predecessor, did not include many new ambitions or targets. This is largely because in previous EAP’s the EU body of environmental law had been largely completed. The Dutch delegation wanted to improve upon the 6th EAP (following the assessment report); focusing specifically on the integration of the regulations. She explained that the position of the Netherlands in the negotiations was in part related to the population density of the country. The Netherlands is known to have a relative high population density. Therefore, it is important that the integration of certain environmental rules decided upon in Brussels are precise, because interference between policies may have serious impacts given the intensive use of space in the country.

Additionally, the Netherlands knows high standards in national legislation (for example drinking water) and it was important for all stakeholders to create a level playing field for the functioning of the Internal Market.

The Netherlands is a proponent of sustainable purchasing (“duurzaam inkopen”). This means that products should meet environmental requirements. However, the Netherlands took a cautious approach to creating an overly binding framework as this could have forced everyone down to the lowest common denominator.

Van Tol explained that there were two important political issues during the negotiations. First, one Member State in particular opposed referring to EU climate goals for 2050 in the EAP. Second, the Netherlands did not want the EAP to suggest EU regulations on soil policy would be desirous. This was a breaking point for the Dutch delegation. There was a coalition of Member States who joined the Netherlands on this issue.

She added that Eastern European countries are not necessarily less or not ambitious. They even sometimes want to have more regulations at the EU level, because it is easier for them to implement those instead of creating those rules on their own at the national level. Moreover, she told me that it is important to take their history behind the Iron Curtain into account.

The interviewee explained that businesses and thinktanks were not necessarily active with lobbying for the 7th EAP. This was mainly due to the general and flexible nature of the EAP. She did receive letters, but those generally did not impact the position of the Dutch delegation.

In conclusion, the EAPs (or the 7th EAP) are seen as abstract plans; they do not contain strict numbers. This is why it may be difficult for delegations of Member States to take in a position. The 7th EAP was also not set up as groundbreaking, because it otherwise may have weakened the chances of establishing another EAP and there was a greater need for policy integration and improving compliance with existing EU environmental law. Therefore, the focus of the Netherlands was on strengthening the integration of the environment into other policy areas and improving the implementation of EU environmental law rather than creating new (ambitious) goals.

## Appendix B: Interview with Duncan Liefferink

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| **Interviewee:**  **Date:**  **Duration:**  **Location:**  **Set up:**  **Language:** | Duncan Liefferink (assistant professor in European and comparative environmental politics)  1 June 2017  45 mins  Radboud University, Nijmegen  Informal background interview  Dutch |

Liefferink has written numerous books and publications on EU environmental policy. Therefore, he has gained insight on the tendencies in this policy field.

He argues that the EAPs have a vague status; meaning that they are not necessarily binding. The 1st to the 5th EAP were not legally binding. This changed with the 6th EAP, because this has become legally binding due to the adoption via codecision. However, he argues that the impact of the binding aspect is limited. Nevertheless, the vagueness of the status of the EAPs did lead to igniting the thinking process of Member States to consider policy making in the environment.

He also argues that the 5th EAP has a greater impact on EU environmental policy than the 6th. This is partly attributed to the Dutch policy style following the NEPP, but also partly due to the political climate in 1992. It is argued that that period was relatively more positive towards the environment and the EU in comparison with 2002/2003.

The EAPs are in theory a nice agreement, but in practice there is not much activity or improvement. Because the EAPs have a vague character, it makes Member States easier to reach an agreement. There are no concrete numbers or deadlines mentioned in the EAPs, which makes the EAP simply a policy plan rather than a legally binding piece of legislation.

According to him, the European Commission is ambitious due to “bureaucratic politics” (the almost natural tendency of bureaucracies to increase their power and influence) and the drive of environmental policy officers/advisors. They have been able to push other states to conform to EU environmental standards (such as Spain) as a requirement before accessing the EU. He does feel that the EU (or the Commission) should limit itself to transboundary issues (and for example not soil policy), because it is impossible for states to regulate those transboundary policies nationally. The Commission is also creating ambitious proposals, because then it has room to negotiate.

Additionally, environmental policy in the EU has created its own dynamics, because it is such an established policy area. He also argues that an agreement is always more easily achievable when there are general guidelines.

Furthermore, he specifies on the dynamics within the Commission. He argues that DG Environment needs to have support from other DGs and the Member States before presenting the proposal.

## Appendix C: Interview with Andrea Vettori

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| **Interviewee:**  **Date:**  **Duration:**  **Location:**  **Set up:**  **Language:** | Andrea Vettori (ENV.D.1 Land Use & Management at European Commission)  13 June 2017  35 mins  Via telephone  Informal background interview  English |

Mr. Vettori was member of a team who coordinated the Environment Action Programme (EAP) within the European Commission. This team, that consisted of three members, was involved in the negotiations and trialogues (Ordinary Legislative Procedure) with the Council of Ministers and the European Parliament until the EAP was finally adopted.

The priorities of the Commission were based upon the final evaluation of the 6th EAP. Based on those conclusions, they created a proposal for the 7th EAP. They learned from the previous Programme, that a limited number of 9 priorities objectives were necessary to create a coherent narrative. Vettori spoke of creating a strategy with clear objectives for 2020, rather than a "Christmas tree", in order to show the interlinkages between the objectives.

The interviewee experienced the negotiations positively. He also praised the efforts of the Council Presidencies, the many Working Parties and the Members of the European Parliament.

According to him, the Belgian and the Danish Presidencies were proactive in 2010 and 2012 in putting pressure on the Commission for an ambitious proposal for the 7th EAP. Given that the Commission proposal was put on the table in November 2012, the Cypriot Presidency had only the opportunity to organize a first exchange of views among ministers, while the Irish Presidency has been the most active in facilitating an agreement among the EU institutions during its semester in the first half of 2013. The agreement between the instructions was reached in July 2013, when Lithuania took over the Presidency, but Ireland lead still the final negotiations. The final adoption by European parliament and Council took place in November 2013.

Mr. Vettori was aware of the Dutch position on the (legally binding) soil framework. In the evaluation of the 6th EAP, it turned out that the EU did not achieve the objectives for soil, and that soil was the only environmental medium that did not enjoy protection at EU level, contrary to nature, water, air, etc. Given the discussions on the Soil framework Directive still on the table, the soil provisions of the 7th EAP were matter of strong discussions, between a majority of Member States in favor of more action at EU level and a blocking minority of them opposing it. However, he points out that the attitude of the Member States towards the level of ambition of the 7th EAP objectives depended on the topic and their specific national interests. On different topics, some Member States were more ambitious than others. For instance the Netherlands were not very keen on soil policy, Spain, Italy, Belgium and Slovakia were interested to achieve this.

Funding was also subject to intensive discussions as the negotiations on the new Multiannual Financial Framework were happening in parallel with the negotiations on the 7th EAP. The Commission was however pointing out the need to back the agreed environmental objectives for 2020 with appropriate (financial) means to achieve them and to implement policies, e.g. in agriculture, infrastructure and research.

The increase in the number of Member States did not pose more difficulties. The negotiations for the 7th EAP were similar to those of the 6th EAP. According to Mr. Vettori, one of the major novelties of the 7th EAP was the aim by the Commission to ensure that the 7th EAP and the achievement of its objectives were seen as a common responsibility by the EU institutions and the Member States, since the environment is a shared competence between the EU and national level.

However, after the adoption of the 7th EAP, the Commission put forward new legislation packages on air and waste to meet the objectives mentioned in the Programme. It turned out that those became watered down by the Member States who had previously agreed upon the ambitious standards in the EAP.

Nevertheless, the interview was concluded with the statement that he regards the 7th EAP to be successful for the Commission and the EU. Additionally, for the period after 2020 he argues that it is positive that the EU has committed to the Sustainable Development Goals and that the EU should deliver to this. Also, the public opinion surveyed regularly by the Eurobarometers favors EU-wide environmental regulation which allows for a strong policy mandate for action at EU level for the environment.

1. It is known that the United Kingdom will leave the EU, but the Brexit negotiations are not concluded yet which means that the UK can still be regarded as one of the 28 Member States at the time of writing. [↑](#footnote-ref-1)
2. Art. 5 of the Treaty on European Union (TEU); more on this in the following chapters. [↑](#footnote-ref-2)
3. Art. 4(2) of the Treaty on Functioning of the European Union (TFEU). [↑](#footnote-ref-3)
4. Art. 294 of the TFEU. [↑](#footnote-ref-4)
5. Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 ‘Living well, within the limits of our planet’ [↑](#footnote-ref-5)
6. An emission-oriented approach involves the formulation of emission limit values. [↑](#footnote-ref-6)
7. Environmental policy integration stands for the acknowledgement that environmental protection should be taken into consideration when creating policies in other areas of competence such as agriculture, energy, industry, transport and tourism. [↑](#footnote-ref-7)
8. Following art. 191 of the TFEU, it stipulates that the EU can preventively adopt legislation on environmental protection that is of a higher level due to the possible dangers to humans, animals and nature. [↑](#footnote-ref-8)
9. The Constitutional Treaty, officially known as the Treaty establishing a Constitution for Europe, was never ratified but it was intended to establish a constitution for the EU. [↑](#footnote-ref-9)
10. Decision No 2179/98/EC of the European Parliament and of the Council of 24 September 1998 on the review of the European Community programme of policy and action in relation to the environment and sustainable development 'Towards sustainability" [↑](#footnote-ref-10)
11. Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme [↑](#footnote-ref-11)
12. The principles of subsidiarity and proportionality refer to the justification of the use of powers of the EU with regards to making legislation for Member States as they have conferred those powers to the Institution. Subsidiarity refers to that the EU may only act when it deems that actions of individual Member States are insufficient. Proportionality refers to that the actions of the EU will not exceed to what is necessary in order to achieve the objective (art. 5 TEU). [↑](#footnote-ref-12)
13. The negotiations occurred within Environment configuration, but the voting and adoption occurred during the meeting of the ministers at Economic and Financial Affairs (ECOFIN). [↑](#footnote-ref-13)
14. The Europe 2020 strategy is a strategy for “smart, sustainable and inclusive growth as a way to overcome the structural weaknesses in Europe's economy, improve its competitiveness and productivity and underpin a sustainable social market economy” (European Commission, n.d.) [↑](#footnote-ref-14)
15. COM(2006)232 (OJ C 332 of 30.12.2006) proposes a Directive establishing a framework for the protection of soil and amending Directive 2004/35/EC. [↑](#footnote-ref-15)
16. COM(2006)232 or the SFD [↑](#footnote-ref-16)
17. COM(2006)232 or the SFD [↑](#footnote-ref-17)
18. The text in bold are the final amendments made to the original Commission Proposal. [↑](#footnote-ref-18)
19. A qualified majority i.e. the number of votes required for a decision to be adopted in the Council is reached when 16 out of 28 Member States vote in favor and when the proposal is supported by the countries representing at least 65% of the total EU population. [↑](#footnote-ref-19)
20. Germany presented its statement separately, but it shared the same vision towards the SFD as the other mentioned Member States. [↑](#footnote-ref-20)