

PhD Thesis



**The European Union's laboratory for sustainable development
in the time of globalization and regionalization.**

*Global implications and institutional conditions
for the circulation of the European experience.*

by

Edoardo Berionni Berna*

Supervisor: Prof. Mario Telo'
LUISS Guido Carli University
Department of Political Science
PhD Program in Political Theory – XXVIII cycle

*Disclaimer: the views expressed in this work are solely those of the writer and may not be regarded as stating an official position of the Italian Ministry of Foreign Affairs and International Cooperation.

To my Family

«The Earth is one but the world is not».

Brundtland Report *Our Common Future*, 1987

Acknowledgements

This volume is the outcome of more than three years of research, study, learning, unlearning, relearning, training, tutoring and teaching.

I would like to warmly thank my University, all professors, colleagues, readers and students who have contributed to develop and exchange inspiring ideas for my work. I am also grateful for the useful comments received at academic conferences and visits abroad, among them the conference *UCL-King's College Postgraduate Environmental Law Symposium* held in London in May 2014 as well as my visiting PhD period of research at Royal Holloway University of London in November 2014.

In particular, may I express my sincere gratitude to:

the Department of Political Science, *LUISS Guido Carli University*

the Center for Ethics and Global Politics, *LUISS Guido Carli University*

Giacomo Benedetto, *Royal Holloway University of London*

Beatrice Berionni Berna, *University of Tor Vergata*

Carmela Decaro, *LUISS Guido Carli University*

Chiara Feliziani, *La Sapienza University*

Lilia Giugni, *University of Cambridge*

Sebastiano Maffettone, *LUISS Guido Carli University*

Sally Mann, *University of Greenwich, London*

Lisa Sulis, *University College of London*

Mario Telo', *LUISS Guido Carli University, Université Libre de Bruxelles*

TABLE OF CONTENTS

Introduction.....8

PART I: RESEARCH QUESTION AND THEORETICAL FRAMEWORK. INTERNATIONAL DIFFERENTIATED RESPONSIBILITY AND ENVIRONMENTAL LEADERSHIP.

1. Theoretical perspectives: international regimes, theory of regionalism, global environmental politics.....13

2. Methodologies: process tracing.....20

3. Politics and Climate Change: the Principle of “Common but Differentiated Responsibility”.....22

4. Responsibility and Leadership: the European Union between Differentiated Responsibility and Environmental Leadership.....31

PART II: THE EU AS REGIONAL LABORATORY.

1. The EU environmental «leadership by example».....37

2. From the Treaty of Rome to the Treaty of Lisbon.....38

3. The key-success factors of the EU regional environmental governance’s experience.....56

3.1. The limits of the Realist approach.....57

3.2. The contribution of historical institutionalism: a policy beyond suspicion?.....	59
3.3. Environmental policy as identity building?.....	60
3.4. The Neoinstitutionalist approach and democratic legitimacy.....	63

**PART III : THE GREENING OF THE EU, ASEAN and MERCOSUR
IN A COMPARATIVE PERSPECTIVE.**

1. Why Comparative Regional Studies matter.....	89
2. The Asean environmental governance: a <i>constructivist</i> path towards sustainability.....	91
3. The Mercosur environmental governance: an <i>institutionalist</i> path towards sustainability.....	103

PART IV: THE EU AS GREENING ACTOR OF FOREIGN POLICY

1. The EU Environmental «leadership by diplomacy».....	124
1.1. The EU structural leadership and Environmental Conditionality...	126
1.2. The EU instrumental leadership and the Green Diplomacy Network.....	131
2. Climate Diplomacy in action: States and NGOs towards the Paris Conference 2015.....	141
3. Political and institutional factors that currently limit the EU influence in leading the process towards a climate change global agreement.....	145

Conclusions and Perspectives.....	164
Bibliography.....	182
Annexes.....	202

Introduction

The work is intended to ask whether and – if so – how the European Union is able to communicate, to promote or simply showcase its system of environmental governance to the wider outside world.

The core- puzzle questions running through this thesis are the following ones:

- 1) Which have been the key success factors of the EU experience in environmental domestic policy? Are there institutional conditions/obstacles to replicate the European experience in other regional integration areas?
- 2) How does external EU environmental governance, broadly understood as the extension of EU environmental policy to non-EU contexts, take place?
- 3) How do internal factors of EU environmental governance (coherence/expertise) play out in the external dimensions under study?
- 4) Why the EU is currently struggling so hard in order to promote its leadership in climate change negotiations? Which are the political and institutional factors that currently limit the EU influence in leading the process towards a climate change global agreement in 2015? Despite the relatively limitation of its current environmental leadership, how can the EU best have positive influence?

Presumably, such challenge for Europe requires a strong form of political leadership. The latter will be here conceptualized under two distinctive forms: (a)

environmental «**leadership by example**» and (b) environmental «**leadership by diplomacy**»¹.

The first one deals with the spontaneous passive influence of the EU environmental policy as public policy within the Union's historical integration. Externally, it has progressively become an important reference point for its near and for its abroad.

At the same time, the Union has also started to consider the EU environmental policy as part of foreign policy through the European External Action Service (EEAS). In doing this, the EU has delivered a vast gradation of policy tools such as the environmental conditionality clauses.

The project structure of the work is composed of four parts. The first part of the research is intended to offer a theoretical framework related to the idea of international responsibility and political leadership in environmental field. What we consider as a key-point in this large debate is the interpretation and application of the principle of Common but Differentiated Responsibility in climate change field, with particular regard to the way through which the EU has intended to interpret it at global level.

The second part of the work aims to acknowledge the EU experience for sustainable development as the most structurally de-nationalized example of multilevel constitutionalism and critically recognize the latter as the most effective historical laboratory for ensuring sustainable development today. Contemporary political-juridical literature largely confirms that the EU

¹ For the original theoretical conceptualization of «leadership by example» and «leadership by diplomacy», see Oberthür S., *The role of the EU in global environmental and climate governance*, in Telo' M., *The European Union and Global Governance*, Ashgate, 2009. See also Oberthür S., *The new climate policy in the European Union: internal legislation and climate diplomacy*, VUB Press, 2009

environmental governance, despite some difficulties, has been an «uncontested success story»². Even if it is a work in progress, the Union has created some of the most progressive environmental public policies of any State in the world, although it is not actually a State³.

The third part of the research will investigate whether the EU can be borrowed in other regional integration areas. Here, within the framework of environmental leadership by example, the research will focus on two selected cases-study: the ASEAN and the MERCOSUR as emerging areas of regional integration. Such comparative exercise will imply the analysis of the key success factors of the EU and the institutional conditions/obstacles of circulation of it, moving from the European historical lesson, from its «leadership by example» and its capacity-building potentials.

The fourth part of the work describes how the EU has struggled to emerge as green leader in International Relations with the ambition to act as global protagonist to govern climate change⁴. In order to avoid a situation in which the EU is a leader without followers, the Union has tuned an array of different tools to take on global climate change leadership. They include the practice and institutionalization of diffuse reciprocity⁵, issue-linkages⁶, the strengthening of

² See Krämer L., *The EU: a regional model?*, in Winter G., *Multilevel Governance of Global Environmental Change, Perspectives from science, sociology and the law*, Cambridge University Press, 2006

³ Jordan A., *Introduction: European Union Environmental Policy-Actors, Institutions and Policy Processes* in Jordan A., *Environmental Policy in the European Union*, Earthscan Ed., 2005

⁴ See Giddens A., *The politics of Climate Change*, Politybooks, 2009

⁵ See Telo' M., *State, Globalization and Multilateralism*, Springer, 2012

⁶ Axelrod R., Keohane R., *Achieving cooperation under anarchy: strategies and institutions*, World Politics, 1985. See also Sebenius J., *Negotiation Arithmetic: adding and subtracting issues and parties*, International Organization, 1983

EEAS's diplomatic efforts⁷, unilateral policy having extraterritorial effects (such as the introduction of measures that link access to the rich and attractive EU internal market to certain environmental standards). In this sense, the EU does wield a quite remarkable hard power because it encompasses the world's largest internal market⁸. All these political-economic approaches are included into the concept of EU «environmental leadership by diplomacy» in multilateral *fora* such as the UNFCCCs.

⁷ See http://ec.europa.eu/environment/international_issues/green_diplomacy_en.htm

⁸ Connelly J., Wurzel R., *The European Union as a leader in international climate change politics*, Routledge, 2011

PART I:
RESEARCH QUESTION AND THEORETICAL
FRAMEWORK.
INTERNATIONAL DIFFERENTIATED
RESPONSIBILITY AND ENVIRONMENTAL
LEADERSHIP.

1. Theoretical perspectives: international regimes, theory of regionalism, global environmental politics.

Our theoretical framework is mainly composed of three bodies of scientific literature: international regimes, regional integration theory and global environmental politics. They are three possible strands of political literature helpful in answering our puzzle-questions. They also outline open-ended aspects where more research will be needed. All of them represent precious complementary tools in order to understand the evolution of EU environmental governance and its external implications.

International regimes. The theory of *international regimes* is one of the IR theories aimed at explaining the political phenomenon of international cooperation (which also include the studies on the role of international law in IR, transnationalism⁹, the theory of complex interdependence, etc.)¹⁰. The core-question lumping together all these theories is why do States decide to cooperate. Broadly speaking, their attitude to cooperation can differ because the evaluation of national interest can change over time and depend upon certain circumstances. What is sure is that – under given circumstances – cooperation turns out to be more profitable than competition or conflict. This assumption particularly fits for the management of global *public goods*, where the sum of individual rational

⁹ For a theoretical introduction to Transnationalism, see Nye J., Keohane R., *Transnational Relations and World Politics: An Introduction*, International Organization, 25, 3, 1971. See also DeBardeleben J., Hurrelmann A., *Transnational Europe. Promise, Paradox, Limits*, Palgrave Macmillan, 2011

¹⁰ See Telo' M., *Relations Internationales. Une perspective européenne*, IEE, Editions de L'Université de Bruxelles, 2007

behaviors often leads to a collective irrational result¹¹. This is exactly the case of global environment intended as *public good*. For its protection, multilateral cooperation is getting more and more essential against the disruptive effects of international anarchy and economic *laissez-faire*. In this sense, multilateral cooperation can take different shapes according to the different levels and degrees of institutionalization: international regimes stand between a minimal level of institutionalization (international agreements, which are *ad hoc*, often “one-shot” arrangements) and a maximum level of institutionalization (international organizations, which are institutionalized bodies)¹².

In political literature, international regimes have been scientifically defined as «a set of implicit or explicit principles, norms, rules decision-making procedures around which actor expectations converge in a given issue-area of IR»¹³. More precisely, principles are beliefs of fact, causation and rectitude. Norms are standards of behavior defined in terms of rights and obligations. Rules are specific prescriptions or proscriptions for action. Decision-making procedures are the prevailing practices for making and implementing collective choice¹⁴. In a similar perspective, international regimes have also been defined as «sets of governing arrangements that include networks of rules, norms and procedures that regularize behavior and control its effects»¹⁵.

Besides, it is important to remark that international regimes are not spontaneous *ad hoc* arrangements, but are instead institutions that evolve with time and that

¹¹ Morin J., *Global Environmental Governance* in Telo' M., *Globalisation, Multilateralism, Europe. Towards a Better Global Governance*, Ashgate, 2013

¹² See Telo' M., *Relations Internationales. Une perspective européenne*, IEE, Ed. de L'Université de Bruxelles, 2007

¹³ Krasner S., *International regimes*, Cornell University Press, 1983

¹⁴ Krasner S., *International regimes*, Cornell University Press, 1983

¹⁵ Keohane R., Nye J., *Power and Interdependence Revisited*, International Organization, 41, 4, 1987

have deep normative roots¹⁶. As well, international regimes should not be confused with formalized organizations, while organizations are often key players setting up and implementing international regimes¹⁷. Put in other words, while regimes are important because they provide the rules of the games, organizations typically emerge as actors pursuing their objectives under the terms of these rules¹⁸.

Insofar as they are sufficiently institutionalized, international regimes can change States' behaviors, by reducing uncertainty and fixing common frameworks of dialogue and cooperation¹⁹. In a world of growing interdependence²⁰, such interdependence has increased the possibilities to build international regimes, so as to both limit international anarchy and national sovereignty.²¹ Since the beginning of the XXI century the theoretical approach of international regimes has been progressively applied to explain the evolution of thousands of issues characterizing international life. Among them, environment and climate change would represent a prominent example of international regimes at work²². In this perspective, even the European Union could be seen as «a set of international

¹⁶ Morin J., *Global Environmental Governance* in Telo' M., *Globalisation, Multilateralism, Europe. Towards a Better Global Governance*, Ashgate, 2013

¹⁷ Young R., *Governance in World Affairs*, Cornell University Press, 1999

¹⁸ Breimeier H. et al., *Analyzing International Environmental Regimes – from case study to database*, MIT Press, 2006

¹⁹ Telo' M., *Relations Internationales. Une perspective européenne*, IEE, Editions de L'Université de Bruxelles, 2007

²⁰ As observed by Morin, one must first recognize the international community's ecological interdependence. Such preliminary recognition of interdependence does not simply mean that countries share a single biosphere, but also that every issue-area of IR is functionally linked to each other. See Morin J., *Global Environmental Governance* in Telo' M., *Globalisation, Multilateralism, Europe. Towards a Better Global Governance*, Ashgate, 2013

²¹ Krasner S., *International regimes*, Cornell University Press, 1983

²² Young O., *International Cooperation: Building regimes for natural resources and the environment*, Cornell University Press, 1989

regimes»²³. As such, the creation of international regimes flows from the outset that multilateral institutionalized cooperation is a necessity to increase the problem-solving capacity of nation States²⁴ and to fill the gap coming from the existing discrepancies between individual and collective interests²⁵. The EU, as strong supporter of the multilateral system, believes that it is possible to establish international agreements with which states comply, as it has been done within the EU in an advanced form²⁶. Moreover, international cooperation would be in the interest of the EU itself, because it enables the Union to “diffuse” its own high environmental standards, so as to guarantee the level playing-field that helps European companies to compete on equal terms in the world²⁷.

Regional integration theory. In political literature, the regional element has been investigated both ontologically and epistemologically²⁸. Today, regions appear not only an alternative mode of reshaping international relations, but also a new vector for structuring global governance itself²⁹. In other words, regions are becoming increasingly important as disseminator of ideas and change

²³ See Moravscick A., *The Choice for Europe: Social Purpose and State Power From Messina to Maastricht*, Cornell University Press, 1998

²⁴ Van Schaik L., *The Sustainability of the EU's Model for Climate Diplomacy*, in Oberthür S., et al., *The New Climate Policies of the European Union*, VUBPRESS 2010.

²⁵ Morin J., *Global Environmental Governance* in Telo' M., *Globalisation, Multilateralism, Europe. Towards a Better Global Governance*, Ashgate, 2013

²⁶ Van Schaik L., *The Sustainability of the EU's Model for Climate Diplomacy*, in Oberthür S., et al., *The New Climate Policies of the European Union*, VUBPRESS 2010.

²⁷ Van Schaik L., *The Sustainability of the EU's Model for Climate Diplomacy*, in Oberthür S., et al., *The New Climate Policies of the European Union*, VUBPRESS 2010.

²⁸ Debarbieux B., *How regional is Regional Environmental Governance?* In *Global Environmental Politics*, MIT Press, 12,3, 2012

²⁹ See Farrel M. et al, *Global Politics of Regionalism. Theory and practice*, Pluto Press, 2005

agents³⁰, mostly as reaction to the persistent deadlocks taking place globally. As concisely noted by Ken Conca, much of the impetus for the *regional* comes from *global* failure, or at least from its stagnation³¹. From a theoretical point of view, the regional element can be conceptualized under four possible notions which are also progressively sequenced from the most basic to the most complex form of regional integration. The first basic notion is the concept of Regionness: it mainly refers to a *longue durée* process whereby historical and cultural roots play a relevant role among people and space. As a consequence, to share a common historical past would also mean to share similar ideas and interests. The second notion is the concept of Regionalization. At its most basic it means no more than a concentration of economic activity at a regional level³². It refers to spontaneous economic processes and it directly depends on globalization³³. Indeed, it can be identified as the *regional* dimension of the *economic* globalization, according to which trading among neighboring countries is the first step to go towards the progressive access to a globalized competitive economy.

The third notion is the concept of Regionalism. It a project taking place when neighboring states decide to cooperation together. In particular, it deals with the economic side of a cooperation. The fourth notion is the concept of New Regionalism³⁴. For the purpose of our research this is the concept that mostly matters. It can be defined as a complex, multidimensional, bottom-up form of

³⁰ Conca K., *The rise of the region in global environmental politics*, Global Environmental Politics, 12,3, 2012

³¹ Ibidem

³² Fawcett L., *Exploring Regional Domains: a Comparative History of Regionalism*, International Affairs, 80, 3, 2004

³³ Telo' M., *Relations Internationales. Une perspective européenne*, IEE, Editions de L'Université de Bruxelles, 2007

³⁴ For a complete conceptualization of New Regionalism see Telo' M., *European Union and New Regionalism*, Ashgate, 2007

cooperation between neighboring states, historically occurred during the post-hegemonic era³⁵. Its structural complexity is tested by the circumstance that new regionalism is based on endogenous and exogenous factors. In this sense, New Regionalism has become a structural component of global governance: it is both a *political* phenomenon that changes the States and an *economic* phenomenon that changes the economic flux³⁶. As for the actors, it is “new” because it includes not only the States, but also formal and informal networks³⁷, business communities, academic scholarships and civil society movements. In this sense, New Regionalism significantly differs from regionalism to be multidimensional (the economic dimension is not the only one) and more cognitive-oriented (that is to say, shared ideas and interests worth much more than they did in the past). What is more, the phenomenon of New Regionalism can also be seen as a strategy of states to shape development and impact of globalization in their region³⁸: a strategy to increase the collective competitive position in relation to the rest of the world – or to other existing competing trading blocs. Such complex, multidimensional, bottom-up, post-hegemonic phenomenon in the time

³⁵ See Telo’ M., *European Union and New Regionalism, Competing Regionalism and Global Governance in a Post-Hegemonic Era*, Ashgate, 2014

³⁶ Telo’ M., *Relations Internationales. Une perspective européenne*, IEE, Editions de L’Université de Bruxelles, 2007

³⁷ For the multiple concept of network conceived as «new principle of socio-political organization», «new tool of social analysis» and «new metaphor for the logic of the modern epoch», first grounded on education and community-building, see Castells M., *The Rise of the Network Society: the Information Age*, Blackwell, 1996. See also Hoffmann M., *Climate Governance at the Crossroads. Experimenting with a global response after Kyoto*, Oxford University Press, 2011. For a comprehensive definition of transnational networks as «a permanent coordination among different civil society organizations (and sometimes individuals, such as experts) which is located in several countries and based on a shared frame for a specific global issue, developing both a protest and proposal in the form of joint campaigns and social mobilizations against common targets at national or supranational level», see Marchetti R., *Civil Society, Global Governance and the Quest for Legitimacy*, in Telo’ M., *Globalization, Multilateralism, Europe. Towards a Better Global Governance*, Ashgate, 2013

³⁸ Grugel J., Hout W., *Regionalism across the North-South divide*, Routledge, 1999

of global competition translates into the discussion and adoption of common policies jointly decided by neighboring States³⁹. Indeed, environmental policy is one of them.

Global environmental politics. This perspective insists on the importance of the North-South dimension in the analysis of environmental governance and cooperation. Such theoretical approach is intended to assess to what extent the North-South division plays a hindering or enabling role in regional environmental cooperation. Broadly speaking, environmental issues – and climate politics in particular – are getting more and more divisive for countries having different levels of economic development⁴⁰. Such division – if not acrimony⁴¹ – between developed states and developing world has been one of the most visible aspects of the recent climate change negotiations. This also tests that North - South dimension still carries on playing a relevant role in this relatively young field of international relations. Such division even penetrates environmental science, when emerging economies see international science (for instance the IPPC Reports) as biased towards Northern framings and Western interests⁴². Higher environmental standards would directly affect the comparative advantage of emerging economies, creating barriers to certain markets, increasing the cost of production and increasing the relative prices of

³⁹ Telo' M., *Relations Internationales. Une perspective européenne*, IEE, Editions de l'Université de Bruxelles, 2007

⁴⁰ Hochstetler K., *Fading Green? Environmental Politics in the Mercosur Free Trade Agreement*, *Latin American Politics and Society*, 45, 4, 2003

⁴¹ Harris P., *Climate Change and Foreign Policy: case studies from East to West*, Routledge, 2009

⁴² See Jasanoff S. et al., *Earthly Politics – Local and Global in Environmental Governance*, MIT Press, 2004

products⁴³, not to mention the fact that the promotion of higher environmental standards is often perceived by developing countries as a form of “green protectionism” in disguise put in action by post-industrial countries⁴⁴. Such concerns of developing countries in their so called “trade-environment agenda” relate on the one hand to how market access can be achieved and preserved without further environmental harming, on the other hand how the same environment can be preserved without making them less competitive so as to affect their growth rate⁴⁵. This is the core-challenge of development, or even better, how to make development *sustainable*: a transition to a carbon neutral world that should take place through market-oriented means rather than through a radical rethinking of our social and economic system⁴⁶.

2. Methodologies: process tracing.

In order to carry out our research, this thesis will embrace research as well as methodology aspects mainly based on process tracing, as fundamental method of qualitative analysis which attempts to identify the intervening causal process - the causal chain and causal mechanism - between an independent variable (or variables) and the outcome of the dependent variable⁴⁷.

⁴³ See Salinas R., *Environmental Challenges Facing the MERCOSUR*, Journal of Environment and Development, 11, 3, 2002

⁴⁴ Steel B. et al., *Environmental Politics and Policy: A Comparative Approach*, McGraw-Hill Ed., 2003

⁴⁵ Tussie D., *The Environment and International Trade Negotiations: Developing Countries Stake*, Int. Development Research Centre, 2000

⁴⁶ See Hoffmann M., *Climate Governance at the Crossroads. Experimenting with a global response after Kyoto*, Oxford University Press, 2011

⁴⁷ George A., Bennett A., *Case Studies and Theory Development in the Social Sciences*, MIT Press, 2005

More specifically, the process tracing method makes scientific use of histories, archival documents and other sources to see whether the causal process a theory hypothesizes or implies in a case is in fact evident in the sequence and values of the intervening variables in that case⁴⁸. Within this framework, the role recognized to formal and informal institutions, agencies, networks concerned with environmental protection and regulation at regional level shape the basis of this study.

Our research is mainly based on a literature review, notably scientific articles, books and document analysis; also institutional official websites and non-scientific sources have been taken into consideration, as political leaders' speeches on official occasions, press releases of the subjects directly involved in the EU decision-making process and in international negotiations' forums. Here, an open approach of "methodological pluralism" has been embraced, assuming from the outset that freedom of research can profit from the accumulation of the valid knowledge and best outcomes of each IR theory⁴⁹. In this sense, Realism, Institutionalism, Constructivism, Post-colonialism shall not be necessarily opposing each other. On the contrary, they can be often complementary in the explanation of a given phenomenon, such as the evolution of the EU environmental policy, its domestic success and its external implications.

⁴⁸Bennett A., Checkel J., *Process Tracing in the Social Sciences: From Metaphor to Analytic Tool*, Cambridge University Press, 2014.

⁴⁹ See Keohane R., *International Institutions: Two Approaches*, in Beck A., et al., *International Rules. Approaches from International Law and International Relations*, Oxford University Press, 1996

3. Politics and Climate Change: the Principle of “Common but Differentiated Responsibility”.

Over the last three decades, the rounds of negotiations on climate change have become the most complex form of international cooperation of our times⁵⁰. The development of the multilateral climate negotiations encounters various factors which increase the complexity of the entire process. First of all, it has to be noted that the issue *itself* is serious and complex because global climate change *is* the main challenge humanity shall face in the 21st century and beyond⁵¹: it is becoming a ubiquitous lens through which we view our world⁵². Despite this, we still lack not just robust institutions to confront it, but also robust theories to understand it⁵³. Such substantial lack of valid and robust theories is also due to the fact that the politics of global environmental governance is always evolving and all the tools and methods to understand it need to evolve with it⁵⁴. One of the other structural factors which tends to increase the complexity of the diplomatic negotiations on climate is the heterogeneity of the States involved in such decision-making process, as well as a different outcome of the cost-benefit analysis carried out by each State.

⁵⁰ Morgera E., *Le regole di Copenaghen*, Accordi climatici, foreste, Relazioni Nord-Sud, in *Equilibri*, XIII, n.3, Il Mulino, 2009

⁵¹ See Di Paola M., Pellegrino G., *Introduction: The Ethics and Politics of Climate Change: Many Themes, a Common Global Challenge*, in *Canned Heat*, Routledge, 2014. For the struggle to govern climate change as one of today's greatest political challenges see also Giddens A., *The politics of Climate Change*, Politybooks, 2009

⁵² Hoffmann M., *Climate Governance at the Crossroads. Experimenting with a global response after Kyoto*, Oxford University Press, 2011

⁵³ Di Paola M., Pellegrino G., *Introduction: The Ethics and Politics of Climate Change: Many Themes, a Common Global Challenge*, in *Canned Heat*, Routledge, 2014

⁵⁴ See Morin J., *Global Environmental Governance* in Telo' M., *Globalisation, Multilateralism, Europe. Towards a Better Global Governance*, Ashgate, 2013

Although climate change is a global problem that affects the entire Planet (and therefore all States) and although the best form of response to this problem is a reasonably extended application of the precautionary principle, each country carries on making its own cost-benefit analysis. Such analysis depends not only on the historical and cultural diversity of the country, but also by factors such as the level of prosperity so far achieved by the country in the current time⁵⁵, its level of vulnerability to the adverse effects due to global warming, scientific uncertainty⁵⁶, a lack of consensus about the values⁵⁷, the effective capacity to implement successful policies of climate mitigation and adaptation within their sorting and, last but not least, the effective political willingness of national governments in addressing the problem⁵⁸, by fitting readily climate change into

⁵⁵ Honkonen T., *The Common But Differentiated Responsibility Principle in Multilateral Environmental Agreements: Regulatory and Policy Aspects*, Kluwer Law International Publ., 2009

⁵⁶ For the fragmentation of the so-called Epistemic Community on climate change, see Susskind L., *Environmental Diplomacy*, Oxford University Press, 1994

⁵⁷ Gupta J., *Climate Change and Developing Countries: From Leadership to Liability*, in Di Paola M., Pellegrino G., *Canned Heat*, Routledge, 2014

⁵⁸ For the problem of “short-terminism”, tied to the fact that the electoral cycle tends to focus policy debate on short-term political gains and satisfying the median voter, see Held D., *Climate Change, Democracy and Global Governance: Some Questions*, in Di Paola M., Pellegrino G., *Canned Heat*, Routledge, 2014. As regards the importance of the timing and domestic constraints of national governments on climate national policy, see also Telo’ M., *The European Union, regionalism and world order*, in Santander S., *Relations internationales et regionalism. Entre dynamiques internes et projections mondiales*, Presses Universitaires de Liège, 2012. As Telo’ notes, in working towards environmental protection and limiting climate change, «domestic costs are concentrated in the short-term, while benefits will mature in the long term, and arguably no current government likes undertaking work for the next government» in Telo’ M., *The European Union, regionalism and world order*, in Santander S., *Relations internationales et regionalism. Entre dynamiques internes et projections mondiales*, Presses Universitaires de Liège, 2012

the priorities of a multilateral order, which is still largely designed according to the contingent circumstances of the post-1945⁵⁹.

Despite a wide-spread feeling of ecological optimism of the early Nineties (Rio 1992), four orders of serious obstacles to global environmental cooperation began to loom: the first one is related to the determined persistence of States to preserve their national sovereignty in the field of environmental issues. Progressively, the States began to realize that the environment was moving from being a secondary, minor, mostly scientific issue of negligible «*low politics*» to a prominent issue of «*high politics*»⁶⁰ because of the strong impacts that environmental policies could produce on economic-industrial national interests. This matter of fact also explains why the *entrée* of climate change politics to the public debate and to the center stage of international relations has been accompanied by a broad range of *strategic linkages* to regimes both within and beyond the environmental realm, such as security, migrations, exploitation of natural resources, fisheries, desertification, human rights and so on⁶¹.

The second one is the apparent lack of incentive to bargain, given the vexed problem of *free-riders*⁶². Put in other terms, it has been the classical – and still

⁵⁹ See Held D., *Climate Change, Democracy and Global Governance: Some Questions*, in Di Paola M., Pellegrino G., *Canned Heat*, Routledge, 2014

⁶⁰ Ott, H.E., *Climate Change: An important Foreign Policy Issue*, *International Affairs*, 77, 2, 2001. See also Harris P., *Climate change in environmental foreign policy. Science, diplomacy and Politics*, in *Climate Change and Foreign Policy. Case studies from East to West*, Routledge, 2009. See also Oberthür S., Pallemmaerts M., *The New Climate Policies of the European Union. Internal Legislation and Climate Diplomacy*, VUB Press, 2010

⁶¹ Jinnah S. *Climate Change Bandwagoning: The Impacts of Strategic Linkages on Regime Design, Maintenance and Death*, *Global Environmental Politics*, 11,3 MIT, August 2011

⁶² See Gupta J., *Climate Change and Developing Countries: From Leadership to Liability*, in Di Paola M., Pellegrino G., in *Canned Heat*, Routledge, 2014

highly controversial – problem of *managing* global public goods⁶³. The question coming up to players' mind has been as follows: why should I legally join this club if I can have all the benefits without bearing any costs? The third obstacles deals with the intense economic, political and cultural difference of interests between two main groups of actors, that is the so-called *North-South Conflict*, based on an underlying binary logics of the Developed/Developing, Colonizer/Colonized, the Victim/Perpetrator, the Polluter/Polluted⁶⁴. According to Susskind, the North-South split has often been portrayed as a battle over money and technology. To all appearances, some observers have described the nations of the South as a «suppliant begging for additional aid»⁶⁵, while the nations of the North as «a wealthy but selfish benefactor unwilling to share its technological secrets»⁶⁶. In reality, there has always been something more than a mere problem of economic and scientific ascendancy. Indeed, it was a complex core-problem of Environmental Justice⁶⁷. Such concept of environmental justice has inspired the formulation of a new principle: the principle of *Common but Differentiated Responsibilities*. Its various interpretation and application do constitute the fourth serious obstacle to global cooperation. In the light of the last UNFCCC CoPs (Copenhagen 2009, Cancun 2010, Durban 2011, Doha 2012, Warsaw 2013, Lima 2014), it seems likely that the diplomatic deadlock in

⁶³ Stavins R., *The Problem of the Commons: Still Unsettled After 100 Years*, American Economic Review, 101, 2011

⁶⁴ See Najam A., *Dynamics of the Southern Collective: Developing Countries in Desertification Negotiations*, Global Environmental Politics, 4,3, 2004. See also Roberts J. T. et al., *A climate of injustice: global inequality, North-South politics and climate policy*, MIT Press, 2007

⁶⁵ Susskind L., *Environmental Diplomacy*, Oxford University Press, 1994

⁶⁶ Susskind L., *Environmental Diplomacy*, Oxford University Press, 1994

⁶⁷ For the overarching debate on Environmental Justice and Climate Ethics see Shue H., *Global Environment and International Inequality*, in Gardiner S., et al., *Climate Ethics, Essential Readings*, Oxford University Press, 2010

climate negotiations continues, especially because each State tends to read and apply the principle of *Common but Differentiated Responsibilities* in its own, different – if not opposing – way.

The principle of Common but Differentiated Responsibilities⁶⁸ was stated for the very first time in climate field on the occasion of the famous 1992 Rio Declaration. In particular, the principle 7 of the Declaration states that: «Member States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities»⁶⁹. At the conclusion of the Rio Conference – elegantly defined by the Italian ecologist intellectual Alex Langer as «the first Peace Conference between Men and Nature»⁷⁰ – the principle of Common but Differentiated Responsibility has thus become one of the multifaceted aspects of the more complex and cross-cutting goal of sustainable development, which is essential for the compatibility between economic growth and environmental protection⁷¹.

⁶⁸ For a first comprehensive preliminary definition of what Responsibility means and how climate change engages several distinct kinds of practical responsibilities, see Jamieson D., *Climate Change, Responsibility and Justice*, in Di Paola M., Pellegrino G., *Canned Heat*, Routledge, 2014. In particular, Jamieson introduces an analytical distinction between Prudential Responsibility and Ethical Responsibility. In its turn, the last one can be sub-split into Moral and Political Responsibility. As for anthropogenic climate change, it imposes practical responsibilities, some of which are prudential and some of which are ethical, plus another duty inherently engaged with the risk of climate change: the respect for nature. See Jamieson D., *Climate Change, Responsibility and Justice*, in Di Paola M., Pellegrino G., *Canned Heat*, Routledge, 2014.

⁶⁹ Principle 7 of the Rio Declaration, 1992

⁷⁰ Langer A., *La semplicità sostenibile* in Langer A., *Il viaggiatore leggero*, Scritti 1961-1995, Sellerio Ed., 2011

⁷¹ See Drumbl M., *Northern Economic Obligation, Southern Moral Entitlement, and International Environmental Governance*, *Columbia Journal of Environmental Law*, 2002

If Rio offered these innovations, it also demonstrated the difficulty of creating *consensus* among very divergent positions: the one of *Developing Countries* and the one of *Developed Countries*. The first appeared to be willing to engage in actions to cut emissions of gases only if taking this commitment at the international level does not interfere with the exercise of their sovereign right to economic development and to catch up with the economies of the countries of oldest industrialization. Conversely, Developed Countries were willing to invest in green finance projects and the transfer of technology and financial resources to Developing Countries especially in the interest of preserving those domestic margins of freedom of pollution associated with their patterns of mass production and mass consumption⁷².

After having introduced the principle of Common but Differentiated Responsibilities in the so-called “*Era of Environmental Globalism*”⁷³, it is now possible to survey the material content of this principle. It consists of two fundamental dimensions: *common* responsibility and *differentiated* responsibility. The first dimension is directly evident in the adjective “common”, which means the existence of a common problem that affects and should engaged all the States. The second is that one of the differentiation of responsibility, directly stemming from a diversification in the burden-sharing costs of mitigation and adaptation to climate change among individual countries, taking into account their socio-economic diversity, their historical responsibilities and their present

⁷² See Marchisio S., *La responsabilità comune ma differenziata degli Stati nella promozione dello sviluppo sostenibile*, in *Annali dell'Università di Ferrara*, sez. v, Saggi II, 1995

⁷³ Chasek P.S., *Earth Negotiations: Analyzing Thirty Years of Environmental Diplomacy*, UNU Press, 2001.

and future capabilities⁷⁴. More precisely, the consideration of the different contribution to environmental degradation is not only about the past (historical responsibility), but it also invests the present. The principle indeed behaves like an evolutionary clause, leaving open the possibility that these Developing Countries now in an advanced stage of development may be expected to accept a greater responsibility once they have reached a high degree of economic development, resulting in an increase in their contribution to environmental degradation⁷⁵.

The statement of this principle now allows us to proceed to a more detailed analysis of the ways in which it has contributed to the *governance* of actions in the field of climate change. In this sense, it is possible to start with the Rio Conference in 1992 which progressively contributed to form and “in-form” the principle of Common but Differentiated Responsibility. Thus, the Action Plan, as adopted at the Conclusion of the World Conference on Sustainable Development in Johannesburg (2002), was in line with what stated in Principle 7 of the Rio Declaration 1992, by reaffirming, reinforcing and expanding the principle of Common but Differentiated Responsibilities in complement with the new principle of “*Good Governance*”⁷⁶. The Conclusions of the World Conference on Sustainable Development in Johannesburg (2002) has extended the scope of application of the principle to new areas including not only the environmental

⁷⁴ See Sands P., *Principles of International Environmental Law*, Cambridge University Press, 2003

⁷⁵ French D., *Developing States and International Environmental Law: The importance of differentiated responsibilities*, *International and Comparative Law Quarterly*, 49, 2000. See also Gupta J., *Climate Change and Developing Countries: From Leadership to Liability*, in Di Paola M., Pellegrino G., *Canned Heat*, Routledge, 2014

⁷⁶ Cordonier S. et al., *Prospects for Principles of International Sustainable Development Law after the WSSD: Common but Differentiated Responsibilities, Precaution and Participation*, *Review of European Community and International Environmental Law*, 12, 2003

dimension, but also that economic and social ones in the *integrated* perspective of sustainable development⁷⁷.

References to greater inclusiveness, solidarity, participation, responsibility have also emerged in more recent UN Conferences on Climate Change: from Copenhagen (CoP15) in 2009 up to Cancun (CoP16) in 2010, Durban (CoP17) in 2011, Doha (CoP18) in 2012, Warsaw (CoP19) and – finally – Lima (CoP20) last November 2014.

According some critical observers, all these UNFCCC Conferences have often been exposed to the risk of turning into mere exercise of “global society tourism” by becoming forms of «*Mega and Macro-Carnivals*»⁷⁸ but to no avail as Sartori had already denounced in the aftermath of the Johannesburg Summit in 2002⁷⁹. Nevertheless, such global UN Conferences on climate change have represented an interesting test for the general functioning of the ongoing system of environmental *governance* at the global level. First of all, the UN Conferences should be given special credit for clarifying the “public space” of global climate governance, which is populated by a huge range of players, such as political leaders, government representatives, academics, business corporations, entrepreneurs, journalists, church groups, youth movements, activists, NGOs, scientific associations and bloggers⁸⁰. Convened for the purpose of granting the States on a system of shared binding rules on climate change mitigation and

⁷⁷ See Rajamani L, *Differential Treatment in International Environmental Law*, Oxford University Press, 2006

⁷⁸ See Sartori G., *Il paese degli struzzi*. Clima, ambiente, sovrappopolazione, Edizi Ambiente, 2011

⁷⁹ See Sartori G., *L'effetto serra delle idee confuse*. *Ambiente, il fiasco dei Summit*, Corriere della Sera, 08/09/02

⁸⁰ Dryzek J., Stevenson H., *Democratizing the global climate regime*, in *Interpretive Approaches to Global Climate Governance*. (De)constructing the Greenhouse, Routledge, 2013

adaptation, they also made it possible to concentrate the World's media attention on the health of our Planet, on common issues and on the difficulties faced in finding common, shared and – especially – globally binding solutions to fix the problem⁸¹. During the overall negotiation rounds, Developing Countries have often acted as a compact bloc, prone to invoke an application of the principle of Common but Differentiated Responsibilities which gives priority to the aspect of the differentiation of the responsibility for Developed Countries.

On the other hand, the United States in Copenhagen, Cancun, Durban and – more recently - Lima has been made plain the so-called negotiating position of “*I will if you will*” towards China and India, both of which are still formally (and debatably) falling into the category of Developing Countries – countries outside Annex I of the Framework Convention on Climate Change of 1992, therefore exempted from responsibilities⁸² and, therefore, from pledging legally binding international obligations in respect of GHG emission reductions⁸³.

⁸¹ Villa A., *Per una democrazia ambientale europea* in *Equilibri. Rivista per lo Sviluppo Sostenibile*, Le riviste de Il Mulino, 2, 2005

⁸² See Mumma A., et al., *Designing a Global Post-Kyoto Climate Change Protocol that Advances Human Development*, *Georgetown International Environmental Law Review*, 20, 4, 2008

⁸³ For the controversial definition of what constitutes a “Developing Country” see Biniaz S., *Common but Differentiated Responsibility*, Remarks, 96, *American Society of International Law Proceedings*, 2002

4. Responsibility and leadership: the European Union between Differentiated Responsibility and Environmental Leadership.

Between the American trend to unilateralism and the reluctance of many Developing countries to accept common responsibilities within an enlarged burden-sharing framework, here comes the distinctive role of the European Union in the climate negotiation process.

The EU's international position on climate change negotiations reflects the way in which the Union has intended to apply the principle of Common but Differentiated Responsibility. Such consistent passage from the *Differentiated Responsibility* to the *Leadership* from the Developed Countries has been recently started been even questioned by Gupta, who adds a new compelling query in international political literature on climate diplomacy: how legitimate is it continue to expect and demand for leadership from developed countries in a changing world, where new emerging countries such as China and India are increasingly assuming economic and political power?⁸⁴ The answer to this question is thought-provoking and proves that a key-issue in climate change governance still is the allocation of responsibilities for taking action. Two schools of thought have slowly emerged on this issue: on the one hand, the so-called «liability paradigm» which implies that those countries that caused substantial harms to other countries would be held responsible for reducing their emissions; on the other hand, a «leadership paradigm» that framed the developed countries

⁸⁴ Gupta J., *Climate Change and Developing Countries: From Leadership to Liability*, in Di Paola M., Pellegrino G., *Canned Heat*, Routledge, 2014

as leaders rather than polluters⁸⁵. The latter paradigm gradually prevailed on the former, by replacing the concept of responsibility in terms of liability with the concept of responsibility in terms of leadership⁸⁶. By linking the leadership concept to the principle of the Common but Differentiated Responsibilities, leadership so meant accepting a greater share of responsibility⁸⁷. In this sense a green leadership has been seen as a conscious assumption of greater responsibility of Developed Countries in reducing GHGs and in combating climate change compared to the other countries⁸⁸.

Leadership is on targets, timetables and financing⁸⁹. Such connection between *Leadership* and *Differentiated Responsibility* is indeed fully consistent with a system based on the principle of Common but Differentiated Responsibilities in compliance with art. 3 of the UN Framework Convention on Climate Change (1992). The article states that: «The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should *take the lead* in combating climate change and the adverse effects thereof»⁹⁰.

Of course, leadership is an overarching theme in political science. Recent IR scientific literature has proposed different conceptualizations of leadership:

⁸⁵ Gupta J., *The History of Global Climate Governance*, Cambridge University Press, 2014

⁸⁶ Gupta J., *Leadership in Climate Change: Inspiring the commitment of developing countries in the post-Kyoto phase*, Review of European Community and International Environmental Law, 7, 2, 1998

⁸⁷ See Susskind L., *Environmental Diplomacy*, Oxford University Press, 1994

⁸⁸ See Gupta J., *Climate Change and Developing Countries: From Leadership to Liability*, in Di Paola M., Pellegrino G., *Canned Heat*, Routledge, 2014

⁸⁹ Gupta J., *Climate Change and Developing Countries: From Leadership to Liability*, in Di Paola M., Pellegrino G., *Canned Heat*, Routledge, 2014

⁹⁰ Art.3.1 UN Framework Convention on Climate Change, 1992

leadership as a reciprocal process that requires recognition and acceptance by the led⁹¹. Again, leadership as asymmetrical relationship of influence, where one actor guides or directs the behavior of others towards a certain goal over a certain period of time⁹². As argued by Young, leadership is a complex phenomenon, ill-defined, poorly understood and subject to recurrent controversy⁹³. It is a difficult concept in both analytical and empirical terms⁹⁴. This being said, it can also take different shapes. Among the others, Young mainly proposes four types of leadership: the *structural* leadership, the *entrepreneurial* leadership, the *cognitive* leadership and the *symbolic* leadership. Structural leadership relates to the actor's hard power and it would depend on material resources, such as military force and economic strength. Entrepreneurial leadership deals with the diplomatic skills of the actor in negotiating and bargaining to facilitate an agreement. Cognitive leadership relates to the continuous definition and redefinition of interests on the ground of knowledge, ideas and values behind. Finally, symbolic leadership would come from the rhetorical posturing by the actor without necessarily implementing concrete measures in effective way⁹⁵.

In our work, we will build on three leadership classical definitions explored Grubb and Gupta in 2000. According to them, the EU aspires (and in fact is

⁹¹ Vogler J., *The European Union as a global environmental policy actor*, in Connelly J., Wurzel R., *The European Union as a leader in international climate change politics*, Routledge, 2011

⁹² Underdal A., *Solving Collective Problems: Notes on Three Modes of Leadership in Challenges of a Changing World*, Fridtjof Nansen Institute, Lysaker, 1991

⁹³ Young O., *Political Leadership and Regime Formation: On the Development of Institutions in International Society*, *International Organization*, 45, 3, 1991

⁹⁴ Skodvin T., Andresen S., *Leadership Revisited*, *Global Environmental Politics*, MIT Press, 6, 2, 2006

⁹⁵ For this proposed distinction between different types of leadership see Young O., *Political Leadership and Regime Formation: On the Development of Institutions in International Society*, *International Organization*, 45, 3, 1991

potentially capable) of *structural*, *instrumental* and *directional* leadership in the global climate regime⁹⁶. The structural leader is the player who uses the “carrots and sticks” technique – if not a “arm-twisting” approach – to influence the others⁹⁷. More precisely, he leads the bargaining process by the constructive use of its political power stemming from material and economic resources. The instrumental leader is the player who masters and maximizes its negotiation and diplomatic skills to pursue issue-linkages, to exploit diffuse-reciprocity situations, to build issue-based coalitions in order to develop an integrative (win-win) rather than a merely distributive bargaining. Finally, the directional leadership is the one related to the idea of leading by example⁹⁸. Indeed, the directional leader is the player who showcases – through domestic policy implementation – the feasibility and efficiency of a particular action and, in doing this, he tries to change other negotiators’ perception on a given issue. At the same time, a directional leader is the one who usually “raises the moral standard” against which the other players will be judged, by demonstrating that a given course of action must be normatively compelling⁹⁹. In short, directional leadership is a leadership by unilateral action to give the example and to make the first move, by demonstrating the pre-eminence of particular solution

⁹⁶ Grubb M., Gupta J., *Leadership: Theory and Methodology* in Grubb M., Gupta J., *Climate Change and European Leadership: A Sustainable Role for Europe?* Kluwer Academic Publishers, 2000

⁹⁷ See Skodvin T., Andresen S., *Leadership Revisited*, Global Environmental Politics, MIT Press, 6, 2, 2006

⁹⁸ Vogler J., Stephan H., *The European Union in Global Environmental Governance: Leadership in the making?*, International Environmental Agreements, 7, 2007

⁹⁹ Gupta J., Ringius L., *The EU’s Climate Leadership: Reconciling Ambition and Reality*, International Environmental Agreements: Politics, Law and Economics, Kluwer Academic Publishers, 1, 2001

alternatives¹⁰⁰. What is certain is that political success often requires the employment of not only one, but a mix of all types of leadership¹⁰¹. As Nye points out, effective leadership requires a mixture of soft and hard powers which he calls “smarter power”¹⁰².

Now, such theoretical toolbox can be specifically applied to environmental negotiations and the EU. As notably observed by Oberthür, the ambitious political objective of the Union «to promote measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change»¹⁰³ (art.191 TFEU) has been attempted through a double strategy: the so-called «*EU leadership by diplomacy*» and the so-called «*EU leadership by example*»¹⁰⁴.

In the light of the previous theoretical conceptualization about different types of leadership, it can be so argued that while «*EU leadership by diplomacy*» mainly contains elements of structural and instrumental leadership, the «*EU leadership by example*» relies on the directional - and partly - symbolic¹⁰⁵ types of leadership.

¹⁰⁰ Skodvin T., Andresen S., *Leadership Revisited*, Global Environmental Politics, MIT Press, 6, 2, 2006

¹⁰¹ Connelly J., Wurzel R., *The European Union as a leader in international climate change politics*, Routledge, 2011

¹⁰² Nye J., *The Powers to lead*, Oxford University Press, 2008

¹⁰³ Art. 191 of the Treaty on the Functioning of the European Union.

¹⁰⁴ See Oberthür S., *The role of the EU in global environmental and climate governance*, in Telo' M., *The European Union and Global Governance*, Ashgate, 2009. See also Oberthür S., *The new climate policy in the European Union: internal legislation and climate diplomacy*, VUB Press, 2009

¹⁰⁵ One of the most recent episodes of EU symbolic leadership has involved the launch of the *European Climate Diplomacy Day* on 17th June 2015. This date has been chosen and celebrated by the EU Embassies around the world to highlight the positive action undertaken by the Union and the Member States in the global fight against climate change. On that occasion, the High Representative Federica Mogherini solemnly stated:

PART II:

THE EUROPEAN UNION

AS REGIONAL LABORATORY.

« Reducing greenhouse emissions calls for a truly global alliance. Governments will have to be mobilized, as much as grassroots. The EU Delegations – our embassies to the world – will use Climate Diplomacy Day to reach out to our partners, to the general public, to the business community, to civil society organizations. Everyone can do their part. And everyone must do their part, for this is not just something that concerns cabinets and institutions. It is the battle of all present and future generations. It is a matter of survival. It is our responsibility». See http://eeas.europa.eu/statements-eeas/2015/150617_02_en.htm

1. The EU environmental «leadership by example».

The concept of the EU «leadership by example» flows from the outset that internal climate change policy (EU domestic dimension) and the approach adopted by the Union in international climate change politics (EU external dimension) are inextricably linked. This is because the European Union is the only supranational institution to have adopted an internal climate change policy which has allowed it to perform the external role of a leader in international climate change politics¹⁰⁶.

Qualitatively speaking, a leadership by example – to be credible¹⁰⁷ – requires the achievement of appropriate measures at home which help to prove that the perceived negative impacts of climate policies on economic development could be minimized, for instance, through industrial transformation policies: this would be possible thanks to the promotion of macro and micro incentives, such as taxing pollutants rather than labor, internalizing environmental costs, creating micro incentives for consumers to make their consumption patterns more eco-friendly¹⁰⁸. On such grounds, the concept of leadership by example embodies the influence the EU can exert through the power of its historical experience of environmental policies and institutions¹⁰⁹.

¹⁰⁶ See Barnes P., *The role of the Commission of the EU. Creating external coherence from internal diversity*, in Connelly J., Wurzel R., *The European Union as a leader in international climate change politics*, Routledge, 2011

¹⁰⁷ For the issues of credibility and coherence as core aspects of directional leadership, see Vogler J., Stephan H., *The European Union in Global Environmental Governance: Leadership in the making?*, *International Environmental Agreements*, 7, 2007

¹⁰⁸ See Weizsacker E. et al., *Factor Four. Doubling Wealth – Halving Resource Use*, Earthscan, 1997

¹⁰⁹ See Connelly J., Wurzel R., *The European Union as a leader in international climate change politics*, Routledge, 2011

2. From the Treaty of Rome to the Treaty of Lisbon.

Over the last 30 years, the European environmental policy has moved from playing a marginal role in the EU political agenda to gradually assume a prominent role among the core-policies of the Union. Before offering an historical outlook of the evolution of environmental policy in the EU, it is important to conceptualize the term *environmental policy*. It can be broadly defined as the «public policy concerning environmental protection and sustainability»¹¹⁰. The topics of environmental policy vary and can include air and water pollution, solid waste management, biodiversity, climate mitigation, climate adaptation, ecosystem management, biodiversity preservation, the protection of natural resources, wildlife and endangered species¹¹¹.

In the history of the European integration, it is primarily interesting to observe that the environment was born with a initial status of «illegitimate child»¹¹², without an explicit legal basis provided in the EEC Treaty. When, in fact, the Treaty establishing the European Economic Community (EEC Treaty) was signed in 1957, it contained no mention of environment or environmental protection policy¹¹³. In short, the environment was not born as a value, since the official purpose of the Treaty of Rome was to ensure the four fundamental

¹¹⁰ McCormick J., *Environmental Policy in the European Union*. The European Series. Palgrave, 2001

¹¹¹ McCormick J., *Environmental Policy in the European Union*. The European Series. Palgrave, 2001

¹¹² Krämer L., *Thirty years of environmental Governance in the European Union*, in Macrory R., *Reflections on 30 Years of EU Environmental Law, A high Level of Protection*, Europa Law Publishing, 2005

¹¹³ Krämer L., *The EU: a regional model?*, in Winter G., *Multilevel Governance of Global Environmental Change, Perspectives from science, sociology and the law*, Cambridge University Press, 2006

economic freedoms, namely the free movement of goods and services, capitals and workers within the space of the EEC.

Historically, the environment was a «relative latecomer»¹¹⁴ which started to become subject of legal consideration for mere instrumental reasons, such as the improvement of the functioning of the common market through the respect of competition between different Member States. It was basically to avoid that potential regulatory a-symmetries among Member States in the environmental field would indirectly encourage environmental dumping phenomenon or the relocation of an industry towards other Member States with lower standards of environmental policies¹¹⁵. In addition to this, the so-called greenest members such as West Germany and Netherlands expressed fear that the imperative of competitiveness in the area of the common market could produce an effect of *race to the bottom* of their already existing advanced environmental legislations¹¹⁶. This initial “constitutional silence” is not surprising, if the original historical context of the Treaties is properly taken into account. In the aftermath of World War II, the international initiatives to protect the environment were patchy and sporadic. As a preliminary point, it should be noted that neither the UN Charter mentioned the environment. Postwar times looked after the reconstruction and the economic development, while the environment was mainly seen as an unlimited reservoir of resources to draw on for meeting basic needs and to recover postwar economies¹¹⁷.

¹¹⁴ McCormick J., *British Politics and the Environment*, WWF Earthscan Original, 1991

¹¹⁵ See Corazza C., *EcoEuropa. Le nuove politiche per l'energia e il clima*, Egea, 2009

¹¹⁶ Johnson D., *Modernization, globalization and Europeanization*, in Barry J., *Europe, Globalization and Sustainable Development*, Routledge Research, 2004

¹¹⁷ See McEldowney J., McEldowney S., *Environmental Law*, Pearson Education, 2010

Internationally, the first multilateral environmental treaties did not have as main objective the conservation of natural resources, but the protection of underlying economic interests of the States¹¹⁸. Even in the EEC as supranational entity, environmental consciousness was originally very poor¹¹⁹. The fact is that the EEC process had a formally different task: to create a common market based on the principle of economic competition. Although environmental protection did not concern the competence of the treaties, European environmental policy measures were pragmatically taken by deducting the competence throughout a wide interpretation to two articles of the EEC Treaty: art. 100 and art. 235 concerning the *harmonization* of Member States' policies and the so-called *Doctrine of Implied Powers* as introduced by the Court of Justice. Such a pragmatic juridical device enabled the Community to overcome the initial hurdle coming from the lacking of an explicit legal basis. At the same time, this utterly disclosed the expansive force of European Court of Justice in contributing to develop environmental regulation under the justification of the Implied Powers.

So that, it can be said that environmental protection has been initially included into the matters subject to the EEC competence in a dynamic way, without necessarily requiring an official treaties' revision. After having provided the first legitimacy for a EEC environmental policy – still considered an illegitimate child until 1986 – the first European environmental measures introduced under the form of Directives and Regulations concerned the classification of dangerous

¹¹⁸ Vedder H.B., *European Environmental Law after Lisbon*, Europa Law Publishing, 2012

¹¹⁹ Giddens A., *The politics of Climate Change*, Politybooks, 2009

substances and their packaging, as well as the protection of the atmospheric and acoustic pollution caused by motor vehicles¹²⁰.

Over time, whereas the national borders were no longer necessarily synonymous with economic frontiers of the internal market, the environmental protection has gradually assumed an increasing importance. As noted by Krämer, the attention for environmental protection began to emerge in 1963 when Rachel Carson, an American biologist, published the famous book *Silent Spring*, in which she denounced that the massive use of pesticides in agriculture and pollution resulting from industrial activity and traffic had caused the disappearance of a large number of wild birds¹²¹. Along with the *Silent Spring*, the alarming report of the Club of Rome on the *Limits of Growth* (1969) and the several oil-tankers accidents on European shores, all contributed to the rise of a public awareness on the potential disruptive effects of human economic activity over the environment as common good¹²².

Internationally, the first sign of a visible change of attitude emerged in Stockholm during the UN Conference on the Human Environment in 1972. The Summit concentrated the media attention of the international community on the problem of environmental degradation and the need to adopt national and international measures. Almost in parallel with Stockholm, the EEC began to speak of the need to seriously address the environmental problem at the Community level. Just one year before Stockholm, the Commission issued its

¹²⁰ See Directive 67/548 1967, Directive 70/157 1970, Directive 70/220.

¹²¹ See Carson R., *Silent Spring*, Mariner, 1963. See also Boyle J., *A Politics of Intellectual Property: Environmentalism for a Net?*, in *Duke Law Journal*, 47, 1997

¹²² Krämer L., *Regional economic Integration Organizations: The European Union as an example*, in Brunnée J., Bodansky D., Hey E., *The Oxford handbook of international environmental law*, Oxford University Press, 2007

first public Environmental Communication SEC (71) 2616 of July 22nd, 1971, where the EEC policy was placed for the first time in direct connection with environmental concern¹²³.

If soft law-based Communications, Declarations and Action Plans on the environment become even more frequent since the 1970s, it was only in 1986 that the Community decided to intervene directly at the level of hard law. Since the Single European Act of 1986, the environmental policy has become officially governed by Treaties. This turning point marked by the Single European Act provided the explicit legal basis for the objectives of safeguarding, protecting and improving the quality of the environment as one of the aims of the EEC. In addition to the principles of “the polluter pays” and “prevention”, the Single European Act also introduced the principle of integration, according to which the requirements related to the protection of the environment shall constitute a core-component of the Community's other sector-based policies (art. 130 R, c. 2). In doing this, the Single European Act marked a fundamental milestone in the evolution of Community environmental policy. Therefore, since 1986 up to the most recent revision of the Treaties in Lisbon 2007, the environment has progressively been raised to an “essential purpose” of the Organization that goes through the pursuit of sustainable development, today specifically mentioned among the Union's objectives (article 3 TEU), while one title of the Treaty is entirely dedicated to the environment (art. 191-193 TFEU).

¹²³ Krämer L., *Regional economic Integration Organizations: The European Union as an example*, in Brunnée J., Bodansky D., Hey E., *The Oxford handbook of international environmental law*, Oxford University Press, 2007

Without explicitly mentioning the concept of Sustainable Development, the Single European Act 1986 already expressed the need to ensure a prudent and rational use of natural resources in strict connection with the original principles that underpin environmental policy (prevention, rectification of damages at source, the polluter pays principle). Art. 130 R, 130 S, 130 T of the Single European Act explicitly give the Community the competence in environmental issues, by specifying objectives, principles and criteria for a common policy.

In particular, article 130 R states that the Community shall contribute to: preserve, protect and improve the quality of the environment, contribute to the protection of human health, the prudent and rational use of natural resources, also taking into account the community's social development and the balanced development of its regions. In short, the art. 130 R, 130 S and 130 T of the EC Treaty disclosed the solemn joint commitment of two great political visions of the last twentieth century: European integration and environmental protection¹²⁴

Just six years later, the Maastricht Treaty 1992 came to integrate Title XVI of the EC Treaty with more detailed provisions relating to the environment. It introduced for the first time an explicit provision on the precautionary principle (art. 174, c. 2, EC Treaty). The Maastricht Treaty also conveys to promote the integration of environmental requirements into the different EU policies and to make the principle of competition compatible with environmental protection. The General Provisions, indeed, establish as a first objective to promote a balanced economic, social and sustainable progress (Treaty Tit. I). Such an apparently small reference marks the beginning of a new season for European environmental

¹²⁴ Holder J., *The impact of EC environmental law in the United Kingdom*, J. Wiley & Sons, 1997

policy. This emerging idea of sustainability is repeated in different points of the Treaty. First, environmental protection has fully become one of the areas of intervention of the Union (Treaty, title II, art. g. k.); the purpose of economic growth shall be integrated to the necessity that such growth is sustainable, harmonious and balanced (Treaty, title II, section g). Finally, the articles devoted to the environment have been reformulated in terms of setting goals, as well as in institutional terms of attribution of powers, by strengthening the role of the European Parliament. A special remark shall also be made as for the application of the principle of subsidiarity. Indeed, the very first time it appeared was in the field of environmental sector-based provisions, (Treaty Tit. XVI art. 130 R, S, T), hearing local institutional instances expressed at peripheral level.

What is more, the final act of the Maastricht Treaty includes a Declaration on Environmental Impact Assessment (EIA), by stating the need for a constant and transversal integration of environmental protection with other many EU sector-based policies (the Treaty, Final Act, Declaration No 20). The above-mentioned Declaration together with the famous Directive 1985/337 specifically concerning the EIA proves the value-change into the Community: the economic initiative so far seen as the engine for European integration seemed to slowly lose its centrality in favor of a more qualitative growth based on the balance between production, consumption and environmental protection, all under the integrated three-dimensional vision of sustainable development. In this sense, it may be argued that the Maastricht Treaty (February 1992) has therefore introduced *in advance* the instances then more solemnly proclaimed on the occasion of the United Nations World Conference on Environment and Development held in Rio de Janeiro (June 1992). Principle 3 and Principle 4 of the UN Declaration state

that the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations (Principle 3). Furthermore, in order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it (Principle 4). In this sense, it can be noticed a substantial parallel historical correspondence of goals between environmental objectives at UN level and environmental objectives at EU level (sometimes coming in advance)¹²⁵.

Following up such reconstruction of the EU environmental policy, the Treaty of Amsterdam 1997 placed the environmental protection (art.2 ECT), in a prominent position among the other objectives of the Community. The title XIX of the EC Treaty concerning the environment, as amended in Amsterdam, confirms and reinforces all the goals already introduced by Maastricht, adding something even more significant in art. 6 of the EC Treaty (now art. 11 TFEU), where the principle of integration was raised as general principle of Community law, so as to be applied not only for environmental issues, but in all EU actions and policies.

The Treaty of Amsterdam introduced sustainable development also in the Preamble, which affirms the will of Member States to promote economic and social progress for their people, taking into account the principle of sustainable development in the context of the completion of the single market, the reinforcement of the cohesion and of environmental protection. Any further step in economic integration shall be accompanied by a parallel progress in other

¹²⁵ Sancy M., *Les principes mis en oeuvre dans le cadre du droit communautaire de l'environnement*, in *I nuovi diritti nello stato sociale in trasformazione: Atti del convegno di Alessandria May 2000*, CEDAM 2002

fields» (Preamble, consolidated version, signed in Amsterdam 1997). The decision-making procedures in the field of environmental policy have, finally, been reduced from three to two: in general, environmental policy will be adopted through the co-decision procedure, while the provisions concerning tax aspects, territorial and energy remain subject to the consultation procedure with unanimity voting in the Council of EU Ministers.

Later on, the Nice Treaty signed in February 2001 does not introduce any significant legislation progress. Only the article 175, which regulates procedural aspects in the adoption of Community instruments relating to the environment, explains which decisions need to be taken unanimously on the subject of water resources' management¹²⁶.

Instead, the EU Charter of fundamental rights, proclaimed a few months before in Nice in December 2000 emphasizes this new cultural approach on environmental issues and translates it into a programmatic principle. In paragraph 3 of the Preamble to the Charter, in fact, the notion of Sustainable Development is expressly referred as a guiding principle of European action, stating that «The Union contributes to the preservation and to the development of these common values while respecting the diversity of the cultures and traditions of the peoples of Europe as well as the national identities of the Member States and the organization of their public authorities at national, regional and local levels; it seeks to promote balanced and sustainable development» (Preamble, paragraph 3, EU Charter). This provision should be combined with article 37 of the Charter itself, which States that «a high level of environmental protection and the improvement of the quality of the environment

¹²⁶ Vedder H.B., *European Environmental Law after Lisbon*, Europa Law Publishing, 2012

must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development». It is worth noting in this respect that, beyond its legal value, the Charter lays down a principle of reinforced integration in relation to article 6 of the EC Treaty, according to which all EU policies must be shaped in compliance with standardized environmental requirements.

The signing of the Lisbon Treaty in 2007 and its coming into force in December 2009 has informed environmental policy since giving it a new name: it is no longer the Community's environment policy, but the Union's Policy on the environment, according to the terminology used in the new art. 191 TFEU (ex Article 174 TEC).

Specifically, the Lisbon Treaty confirms the principles already defined in the course of the European integration process and some relevant novelties, proposed in the previous Constitutional Treaty never entered into force. The new art. 3 TEU (former art. 2 EC Treaty), considers the sustainable development and intergenerational solidarity for Europe¹²⁷ as ones of the objectives of the Union, based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment.¹²⁸ The Lisbon Treaty also significantly innovates on the general provisions on the Union's External Action, compared to earlier treaties, including the 2004 Constitutional Treaty¹²⁹. The new article 21 TEU states that the Union shall define and pursue common policies and actions, and shall work for a high

¹²⁷ McEldowney J., McEldowney S., *Environmental Law*, Pearson Education, 2010

¹²⁸ See Montini M., Alberton M., *Le novità introdotte nel Trattato di Lisbona per la tutela dell'ambiente*, in *Rivista giuridica dell'ambiente*, 2008

¹²⁹ Vedder H.B., *European Environmental Law after Lisbon*, Europa Law Publishing, 2012

degree of cooperation in all fields of international relations, in order to help develop international measures for the improvement of the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development (art. 21, c. 2, f).

The new Title XX, in fact, does not deal only with environment, but also with climate change (with a significant difference compared to 2004): article 191, working on this specific reference to climate change, remarks the promotion of «measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change». As suggested by the UK House of Lords European Union Committee, the explicit reference in the Lisbon Treaty against climate change assumes both “strategic and judicial” meaning¹³⁰. The HL Committee, known for an ability to study and deepen European issues, notes that the EU has made an important step in being the first to adopt the discipline of an area so politically sensitive, and recognizes the long-term meaning of this strategy¹³¹. Among the changes in environmental matters by the Lisbon Treaty, the Report gives special emphasis on the following points:

1. The Lisbon Treaty states that environmental policy should be a matter subject to a regime of *shared competence* between the Union and the Member States (art. 4, c. 2)
2. Climate change is explicitly mentioned in the Treaties for the very first time. Indeed, the policy of the Union must contribute to pursuing the objective of promotion at international level of measures designed to

¹³⁰ HL *European Union Committee 10th Report*, House of Lords, 2008

¹³¹ McEldowney J., McEldowney S., *Environmental Law*, Pearson Education, 2010

tackle environmental problems at regional or world-wide level and, in particular, to combat climate change.

3. Closely related to the latter, there is also the new article 194 on energy, where, in a spirit of solidarity between Member States, the Union's policy in this sector is intended to ensure the functioning of the energy market, guaranteeing the security of energy supply in the Union, promote energy saving, energy efficiency and the development of new and renewable energies and, lastly, promoting the interconnection of energy networks (TITLE XXI Article 194, c. 1).

4. The titles XXII (tourism) is also potentially relevant for environmental issues. The Union action shall be aimed to promote cooperation between Member States in particular through the exchange of best practices. Then, the title XXIII states that the Union action shall aim to support and supplement Member States' action at national level, regional and local levels – confirming the multi-level nature of good environment – as for risk prevention, in preparing their civil-protection personnel in the Member States and the intervention in case of natural disasters or man-made accidents inside the Union» (art. 196, c. 1).

5. A further change has been finally introduced as regards the decision-making procedure to follow in environmental areas so far deemed “nationally sensitive”, with the effect of enhancing and expanding the role of the European Parliament, considered by many observers to be the «*Greenest European Institution*»¹³², also in relation to the Commission.

¹³² Bomberg E., *Green parties and Politics in the European Union*, London Routledge, 1998. See also Burchell J., Lighfoot S., *The EU and sustainable development*, in Barry J., *Europe, Globalization and Sustainable Development*, Routledge Research, 2004

Under the old art. 175 TEC, the Council adopted the environmental legislation, voting by qualified majority voting (QMV) and co-decision procedure. However for some measures considered nationally sensitive (such as those with primarily fiscal provisions, measures affecting spatial planning, quantitative management of water resources, soil target, the Member States' choice between different energy sources and the general structure of energy supply) it continued to apply the unanimous voting system within the Council, after consulting the European Parliament (article 175.2 TEC). Now, article 192.2 TFEU introduces a further innovation when it adds at the end of paragraph 2 that the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, the European economic and Social Committee and the Committee of the regions, may make the ordinary legislative procedure applicable to the matters referred to in the first subparagraph ' (those which are considered nationally sensitive), so as to allow a potential expansion of the role of the European Parliament if the Council decides unanimously to apply ordinary legislation on those subjects¹³³.

(House of Lords European Union Committee 10th Report, 2008)

Finally, in the context of division of powers, further elements of novelty are contained in the new article 3 TFEU. This establishes that the Union has exclusive competence in the conservation of marine biological resources under

¹³³ House of Lords European Union Committee 10th Report, 2008

the common fishery policy (art. 3, c. 1, lett. d), and maintains a system of concurrent legislation with Member States in the field of agriculture and fisheries and the environment (art. 4, c. 2, letter e). In the latter case, the European legislation governing such matters subject to concurrent jurisdiction scheme may be subject to the application of control procedures in compliance with the principle of subsidiarity pursuant to art. 5, c. 3 of the new EU Treaty.

Brief overlook on the environmental policy's provisions contained in the Treaty on the functioning of the European Union after Lisbon.

TITLE XX

ENVIRONMENT

Article 191

(ex Article 174 TEC)

1. Union policy on the environment shall contribute to pursuit of the following objectives:

- preserving, protecting and improving the quality of the environment,
- protecting human health,
- prudent and rational use of natural resources,
- promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.

2. Union policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Union. It shall be based on the precautionary principle and on the principles that

preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.

To sum up, the EU environmental policy is ruled in the TFEU by art. 2 (shared competence), art. 11 (principle of integration), the Title XX from art. 191 to 193 laying down in detail policy's objectives and principles. In addition to this, article 3 of the TEU states that the Union shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment (art. 3, c. 3 TFEU). This aims to ensure sustainable development in Europe, adding that «in relations with the rest of the world, the Union promotes its values and interests, contributing to the protection of its citizens. It contributes to the peace, security and the sustainable development of the Earth» (art. 3, c. 5, TEU). Has it been truly put into practice?

Externally, the above-proclaimed pursuit of the sustainable development of the Earth seems to be far from being fully satisfactory, despite the solemn commitment of the EU to promote such objective at international stage.

Internally, according to most of analysts in contemporary political-juridical literature, the EU environmental *governance*, despite some difficulties, has been an «*uncontested success story*»¹³⁴. Even if it is a *work in progress*, the Union has

¹³⁴ See Krämer L., *The EU: a regional model?*, in Winter G., *Multilevel Governance of Global Environmental Change, Perspectives from science, sociology and the law*, Cambridge University Press, 2006

created some of the most progressive environmental policies of any State in the world, although it is not actually a State¹³⁵. Its system of regional governance can more easily constitute a form of appropriate and effective response to major global challenges such as climate change and protection of biodiversity, because the regional political and economic institutions are generally more robust and more structured than global ones¹³⁶. Such statement seems to be empirically confirmed by the case of the European environmental policy. Over the institutional landscape of the contemporary world, the EU is the first political laboratory of geo-juridical regional integration aimed at cultivating the threefold objective of economic growth, social cohesion and environmental protection in an integrated vision of sustainable development¹³⁷.

The European environmental policy is greater than the mere sum of national policies of the environment. In their turn, they have been deeply «europeanized»¹³⁸ as a result of their interaction with the European supranational policy-making. In such a tortuous history of “*settling and moving*”¹³⁹, the overall assessment on the EU contribution to environmental protection can bring back to the simple question put forward by Sbragia: nowadays, what other Supranational

¹³⁵ Jordan A., *Introduction: European Union Environmental Policy-Actors, Institutions and Policy Processes* in Jordan A., *Environmental Policy in the European Union*, Earthscan Ed., 2005

¹³⁶ Patt A., *Effective Regional Energy Governance – not Global Environmental Governance –Is what we need right now for climate change*. *Global Environmental Change*, 20, 1, 2010

¹³⁷ McEldowney J., McEldowney S., *Environmental Law*, Pearson Education, 2010

¹³⁸ See Jordan A., Liefferink D., Fairbrass J., *The Europeanization of national environmental policy: A comparative analysis*, in Barry J., *Europe, Globalization and Sustainable Development*, Routledge Research, 2004

¹³⁹ See the idea of “*movimento e assestamento*” by Amato G., *Il trattato di Lisbona e le prospettive per l'Europa del XXI secolo* in Bassanini F., Tiberi G., *Le nuove istituzioni europee. Commento al Trattato di Lisbona*, Quaderni di Astrid, Il Mulino, Bologna, 2010

Organization deals with drinking water, protection of wild birds, bees health, treatment of urban waste water and the fight against water pollution by nitrates, as the European Union does?¹⁴⁰

Initiatives such as the Europe 2020 Strategy, the formula of the so-called «EU bubble»¹⁴¹, the 2008 climate and Energy Package, the most recent 2030 Climate and Energy Policy Framework for the European Union proposed by the European Commission in February 2014 and approved by the European Council in October 2014 are some of the latest demonstrations of a trend that sees the Union directly engaged in the fight against climate change, differentiating unilaterally their commitments to reduce emissions of greenhouse gases¹⁴². The original 2008 Climate and Energy Package included the so-called “20-20-20 targets”, setting three key objectives for 2020: raising the share of EU energy consumption produced from renewable resources to 20%; a 20% improvement in the EU's energy efficiency; a 20% reduction in EU greenhouse gas emissions from 1990 levels. More recently, the EU 2030 Climate and Energy Policy Framework approved in October 2014 adds something more to the previous objectives: indeed, the European Council endorsed a binding EU target of an at least 40% domestic reduction in greenhouse gas emissions by 2030 compared to 1990; increasing the share of renewable energy to at least 27% of the EU's energy consumption by 2030 and increasing energy efficiency by at least 27% by

¹⁴⁰ Sbragia A., *Environmental Policy*, in Wallace H., Wallace W., *Policy-making in the European Union*, Oxford University Press, 1996

¹⁴¹ For a scientific definition of EU BUBBLE see Park C., *Dictionary of Environment and Conservation*, Oxford University Press, 2007

¹⁴² See Berionni Berna E., *L'integrazione nella politica ambientale e contro il cambiamento climatico*, in Telo' M., *L'integrazione regionale dell'Unione europea*, Mondo e tendenze, Atlante Geopolitico Treccani 2015, Istituto dell' Enciclopedia TRECCANI

2030¹⁴³. The latter's unilateral reduction target has been reaffirmed on the occasions of the CoP20 UNFCCC Conference in Lima 2014¹⁴⁴.

The results so far achieved by the Union in the fight against climate change should not however directly lead to uncritical and simple conclusion that the EU represents an environmental governance *model* to be exported elsewhere. The EU's role as a "model" remains widely debated and controversial in literature¹⁴⁵. Indeed, the problem of degree of effectiveness of European environmental policy implementation within some of the Member States' domestic orders still remains critically open and it still depends on each Member State. The effectiveness becomes a fundamental factor for the credibility of the model, for the «leadership by example»¹⁴⁶ of the Union and for its possible reproducibility in other contexts of regional integration¹⁴⁷. Besides, the EU can carry on representing an advanced *laboratory*¹⁴⁸ and an interesting *reference* for other regional integration areas, which see the EU as a deeply institutionalized regional form of multilateralism still able to exert a «soft power»¹⁴⁹ and to turn out reactions of emulation and competition with other regional organizations.

¹⁴³ See http://www.consilium.europa.eu/uedocs/cms_data

¹⁴⁴ See http://unfccc.int/meetings/lima_dec_2014/meeting/8141.php

¹⁴⁵ Zito A., *The European Union as an environmental leader in a global environment*, Globalizations, 2, 3, 2005. See also Telo' M., *European Union, Regionalism, New Multilateralism: three scenarios*, in Telo' M., *European Union and New Regionalism*, Ashgate, 2007

¹⁴⁶ Oberthür S., *The role of the EU in global environmental and climate governance*, in Telo' M., *The European Union and Global Governance*, Ashgate, 2009

¹⁴⁷ See Vogler J., *The European contribution to global environmental governance*, International Affairs, 81,4, 2005

¹⁴⁸ See Telo' M., *Relations Internationales. Une perspective européenne*, IEE, Editions de l'ULB, 2007

¹⁴⁹ For the several existing forms of "soft power" as power of emulation and persuasion, see Nye J., *Soft Power. The Means to Success in World Politics*, Public Affairs, 2005

3. The key-success factors of the EU regional environmental governance's experience.

This chapter aims at explaining which have been the key success factors of the EU experience in environmental domestic policy and if there are institutional conditions/obstacles to replicate the European experience in other regional integration areas. In order to investigate the key success factors of the EU environmental policy and why the EU has become to take the lead in international environmental negotiations since 1989-91, we will apply IR theories to the case of EU environmental policy. We will see how each selected theory (Realism, Path dependence, Constructivism, Neoinstitutionalism) can contribute to provide its part of explanation. As already affirmed in our introduction, an open approach of “methodological pluralism” has been here embraced, assuming from the outset that freedom of research can profit from the accumulation of the valid knowledge and best outcomes of each IR theory¹⁵⁰. In this sense, Realism, Institutionalism, and Constructivism shall not be necessarily opposing each other. On the contrary, they can be often complementary in the explanation of a given phenomenon, such as the evolution of the EU environmental policy, its domestic success and its external implications.

3.1 The limits of the Realist approach.

Despite some explanatory limits, the realist theory could be able to provide its own interpretation to the phenomenon of the *greening* EU. According to realists,

¹⁵⁰ See Keohane R., *International Institutions: Two Approaches*, in Beck A., et al., *International Rules. Approaches from International Law and International Relations*, Oxford University Press, 1996

the success of the EU regional environmental policy could be found out in two explanatory factors: the first one is internal and mainly relates to the inside dynamics within the EU: the dominant position of Germany as *green leader* among the other Member States. Germany, with greater structural powers and economic strength, would have largely led the so-called Europeanization of environmental policy, here intended as «macro-process of mutual learning and harmonizing force of convergence between systems, principles, structures, practices and national styles of environmental policy among Member States of the EC/EU»¹⁵¹. Indeed, the general approach of the European Commission has always been to take inspiration from the models of the most advanced environmental policies in European countries (Germany, Netherlands, Austria) and then induce the catch-up of the other European countries.

The final outcome has been the setting-up of more stringent standards to the rest of Member States which saw Germany as the dominant uploader of its environmental policy to the rest of the EC/EU¹⁵², in order to avoid that potential regulatory a-symmetries among States in the environmental field would indirectly encourage environmental dumping phenomenon or the relocation of an industry towards other Member States with laxer standards of environmental policies¹⁵³. In addition to this, Germany and Netherlands expressed fear that the imperative of competitiveness in the area of the common market could produce

¹⁵¹ Jordan A., *Impact on UK Environmental Administration*, in Lowe P., Ward S., *British Environment Policy and Europe. Politics and policy in transition*, Routledge, 1998

¹⁵² For the role of Germany in EU environmental policy, see Janicke M., *German Climate Change Policy. Political and Economic Leadership* in Connolly J. et al., *The European Union as a leader in international climate change politics*, Routledge, 2011. See also Weibust I., *Green Leviathan, The case for a federal role in environmental policy*, Ashgate, 2009

¹⁵³ See Corazza C., *EcoEuropa. Le nuove politiche per l'energia e il clima*, Egea, 2009

an effect of *race to the bottom* of their already existing advanced environmental legislations¹⁵⁴.

The second factor is more external-oriented and relates to the recent industrial performance of the EU in comparison with the rest of the world. While most of EU countries are today largely de-industrialized, countries such as India and China are facing an emerging phase of industrialization which is also reflected in a larger volume of carbon emissions¹⁵⁵. For the EU, the economic cost of reducing emissions would be relatively lower than those sustained by the so-called newly industrialized countries. Against this background, the EU would be so “green” not for ideals and norms, but for its economic interests to pursue against the rise of new industrialized countries. The outcry of the EU over environmental degradation would be a tactic to keep the poor ones from industrializing¹⁵⁶. So, the push for a EU advanced environmental policy is in line with the realist approach. However, the realist school seems to be able to explain only in part the phenomenon of a greening EU. Against its economic competitors, the EU could just stop imposing itself unilateral environmental targets and stop struggling for a global agreement to fight against climate change. But why the EU does not stop fixing higher unilateral environmental standards? Why the EU does not stop pooling resources for a cooperative solution to fight climate change? At the very end, realism doesn’t seem to be able to explain the whole picture.

In this sense, a very similar interpretation on the EU environmental policy has been conducted by the post-colonial school. As we will see in part IV of the work,

¹⁵⁴ Johnson D., *Modernization, globalization and Europeanization*, in Barry J., *Europe, Globalization and Sustainable Development*, Routledge Research, 2004

¹⁵⁵ See the Report *Trends in Global CO2 Emissions 2014*, Background Studies, European Commission Joint Research Centre, 2014

¹⁵⁶ Tolba M., Rumme-Bulska I., *Global Environmental Diplomacy. Negotiating Environmental Agreements for the World*, MIT Press, 1998

according to a postcolonial perspective, many developing countries have been suspicious of the “environment” as a public issue on a global scale because the promotion of higher environmental standards would have required for them expensive costs in production processes, inputs and factors translated in resulting increased costs of production that would hurt countries’ ability to compete with industrialized countries that have already met such standards. Under developing countries’ perspective, such (in)intentional outcome would create new economic disadvantages for them, because new environmental protections would make them less competitive¹⁵⁷. In short, it would deal with a technique of the West to prevent the emerging economies from catching-up EU and US.

3.2 The contribution of historical institutionalism: a policy beyond suspicion?

According to a *path-dependence* explanation, the EU environmental institutions, agencies, policy makers have been able to determine inertial dynamics, so as to give the EU environmental policy a kind of “independent life”¹⁵⁸. This would have been even more true if we consider that environmental policy has been seen – at least at its very beginning – as a policy “beyond suspicion”¹⁵⁹. Indeed, the historical institutionalist theory of path-dependency would view the same European integration itself not solely as an endogenous response to exogenous

¹⁵⁷ See Hochstetler K., *Fading Green? Environmental Politics in the Mercosur Free Trade Agreement*, *Latin American Politics and Society*, 45, 4, 2003

¹⁵⁸ For an institutionalist explanation of this dynamics, see Keohane R., *After the Cold War. International Institutions and State Strategies in Europe*, Harvard University Press, 1993

¹⁵⁹ See Hèritier A., *Ringling the Changes*, De Gryter Ed., 1996. See also Farrel H., Hèritier A., *Formal and Informal Institutions under Codecision: Continuous Constitution-Building in Europe*, *Governance: An International Journal of Policy, Administration and Institutions*, 16, 2003

shifts in structural variables, but as an largely endogenous path-dependent process of recursive “spillover”¹⁶⁰, in which even environmental policies and institutions would provoke autonomous dynamics and “unintended consequences”, which then lead to further integration, by spill-over effects. According to this theoretical approach, the overall history of the EU integration should be largely viewed as a path-dependent process producing a multitier European polity¹⁶¹.

3.3 Environmental policy as identity building?

According to Constructivism¹⁶², the evolution of international life would not be necessarily determined by material and rational interests, but by ideas, values, identities, subjective perceptions: against this background, the thought would not passively reflect the reality, but rather influence the realization itself¹⁶³. In dealing with the complex dialectics between agent and structure, constructivists single out the social structure as the independent variable. The social structure is immaterial and idealistic, mainly composed of ideas, norms, values and identity. In such perspective, in international forums the States will tend to assume a position of policy consistent with the norms that they have institutionalized at domestic level. As a consequence, the States will be expected to act internationally by trying to “diffuse” their normative order. Such choice to export

¹⁶⁰ On this point, see Moravcsik A., *Sequencing and Path Dependence in the European Integration*, University of Notre Dame Press, 2005

¹⁶¹ See Pierson P., *The Path to European Integration. A Historical Institutional Analysis*, *Comparative Political Studies*, 29, 2, 1996

¹⁶² For an introduction to contemporary constructivist movement, see Ruggie J., *Constructing the World Polity*, Routledge, 1998. See also Wendt A., *Social Theory of International Politics*, Cambridge University Press, 1998

¹⁶³ For a comprehensive introduction to constructivist theories, see Telo' M., *Relations Internationales. Une perspective européenne*, IEE, Editions de L'Université de Bruxelles, 2007

norms at international level can become economically expensive if the norm-setter State has not followers¹⁶⁴. In fact, what leads such norm-diffusion is the belief in the inherent validity of the norm itself¹⁶⁵. Now, by applying such theory to the purpose of our research, it emerges that the EU environmental policy would be so relevant for the EU because it would have acted (internally) as green *identity-building* factor and (externally) as green *norm-setting* factor. In doing this, the EU could reinforce its green identity and increase its domestic legitimacy by offering a chance for European citizens to find out what Europe can do and to show the wider world what Europe can offer¹⁶⁶. What is more, EU climate policy does not only represent a strategy to tackle the climate problem, but it can also be intended as an opportunity to increase its institutional autonomy from Member States¹⁶⁷ and a strategy for reinforcing the EU foreign policy¹⁶⁸, not to mention the climate policy as vehicle to address energy security concerns¹⁶⁹. So that, environmental policy would come to play a *driver role* for EU identity-building and for European integration in general¹⁷⁰, seemingly even as the economy and the common currency (both of them historically essential in the process of integration) are currently under pressure and seem to have

¹⁶⁴ Sicurelli D., *Divisi dall'ambiente. Gli USA e l'Unione europea nelle politiche del clima e della biodiversità*, Vita&Pensiero, 2007

¹⁶⁵ Sicurelli D., *Divisi dall'ambiente. Gli USA e l'Unione europea nelle politiche del clima e della biodiversità*, Vita&Pensiero, 2007

¹⁶⁶ Connelly J., Wurzel R., *The European Union as a leader in international climate change politics*, Routledge, 2011. See also Hovi J. et al., *The Persistence of the Kyoto Protocol*. *Global Environmental Politics*, 3, 2003

¹⁶⁷ Morin J., *Global Environmental Governance* in Telo' M., *Globalisation, Multilateralism, Europe. Towards a Better Global Governance*, Ashgate, 2013

¹⁶⁸ Hovi J., *The Persistence of the Kyoto Protocol: Why Other Annex I Countries Move On Without The United States*, *Global Environmental Politics*, 3,4,2003

¹⁶⁹ See Afionis S., *The European Union as a Negotiator in the International Climate Change Regime*, *International Environmental Agreements: Politics, Law and Economics*, 11, Springer, 2011

¹⁷⁰ See Oberthür S., Pallemarts M., *The New Climate Policies of the European Union. Internal Legislation and Climate Diplomacy*, VUB Press, 2010

missed today the absolute centrality they had in the past. Climate change has fitted the right profile and has often been seen as a “savior issue” for the EU itself, in desperate need for an appealing issue to showcase its added value to European citizens¹⁷¹. Besides, the link between the EU purposeful approach to climate change and the pushing for the European integration is paralleled in the external projection of the Union¹⁷², because the issue of global warming has also provided the EU a strong *actorness* in the international arena¹⁷³. Summing up, over the last thirty years the issue of environmental protection has become a key component of European identity in the making and one of the main European foreign policy principles¹⁷⁴ which lead the Union to play a role of normative power towards third or partner *norm-receiving* States, by pressing them to change their behaviors through the so-called EU environmental conditionality (see PART IV).

¹⁷¹ Van Schaik L., *The Sustainability of the EU's Model for Climate Diplomacy*, in Oberthür S., et al., *The New Climate Policies of the European Union*, VUBPRESS 2010.

¹⁷² Costa O., *Who decides EU foreign policy on climate change? Actors, alliances and institutions* in Harris P., *Climate Change and Foreign Policy: case studies from East to West*, Routledge, 2009

¹⁷³ See Sbraiga A., *Institution-building from below and above: the European Community in Global Environmental Politics*, in Jordan A., *Environmental Policy in the European Union: actors, institutions and processes*, Earthscan, 2002

¹⁷⁴ Manners I., *The Normative Ethics of the European Union*, *International Affairs*, 84, 1, 2008

3.4 The Neoinstitutionalist approach and democratic legitimacy.

In a neoinstitutionalist perspective, focused on variables explaining limitations and self-limitations of sovereignty¹⁷⁵, the key-success factors of the EU regional environmental governance's experience would be mainly found out in institutional reasons, thanks to the creation and implementation of an international regime, composed of formal and informal norms, procedures and institutions working at regional level and operating under political and democratic legitimacy.

The first explanatory key-success factor of the EU regional environmental governance's experience is directly stated in the text of the Fifth Action Program in relation to the environment and sustainable development (1993). It stresses that one of the major strengths of the EC in order to protect environment is its legislative-making power.

As pointed out in environmental literature by Robin Sharp, an important explanatory factor of European success in the field of environment is in fact represented by the nature of EU legislation¹⁷⁶. Indeed, the Union uses binding normative instruments such as Directives, Regulations, Decisions, which compose a body of norms representing perhaps the only

¹⁷⁵ For a comprehensive introduction to institutionalist theories, see Telo' M., *Relations Internationales. Une perspective européenne*, IEE, Editions de L'Université de Bruxelles, 2007

¹⁷⁶ Sharp R., *Responding to Europeanisation. A governmental perspective*, in Lowe P., Ward S., 1998, *British Environment Policy and Europe. Politics and policy in transition*, Routledge, 1998

example of a solid base at supranational level legislation providing for the establishment of minimum standards of environmental protection. The style of environmental legislation goes through the so-called standard-setting¹⁷⁷. The standard-setting means to set standards of scientific and technical nature on performance and on quality, which however always imply more profound ethical instances¹⁷⁸. Environmental standards must be sufficiently clear and precise to ensure that the quality and environmental performance can be measured and compared to each other, in order to assess the health status of the European environment as a whole¹⁷⁹. The cross-cutting spectrum of environmental problems requires the acquisition of different regulatory tools: multiple and integrated. The dynamic mix of *hard law* and *soft law* is expected to guide the change, taking into account that sustainability is not an immediate result, but a compound process. In short, it is not a final product, nor can it be identified solely on the basis of certain formal requirements. It is rather a «work in progress», in which it is fundamental to be able to respond flexibly to arising challenges. It is not fixed harmony, but a process that varies over time and requires a continuous adaptation to external and internal circumstances.

The functioning of the European environmental governance is also tied to a second explanatory factor: the decision-making procedures within the *Méthode communautaire*. After the Lisbon Treaty reform, co-decision has become the ordinary legislative procedure so as to reach a total of more than 86 legal bases for this procedure. This also includes environmental matters, where decisions are

¹⁷⁷ Lowe P., Ward S., 1998, *British Environment Policy and Europe*. Politics and policy in transition, Routledge, 1998

¹⁷⁸ Wynne B., Waterton C., *Public Information on the Environment: the role of the European Environmental Agency*, in Lowe P., Ward S., *British Environmental Policy and Europe: Politics and Policy in Transition*, Routledge, 1998

¹⁷⁹ *Ibidem*

taken jointly by Parliament and the Council (except the exceptions explicitly numbered article 192 par. 2 TFEU, where the Council decides on its own and unanimously).

Besides, the general procedural rule is that environmental legislation is adopted through joint decisions of the European Parliament and of the EU Council which deliberates by a qualified majority voting, without thus running the risk that one country can exercise a substantial veto power until its requests are not met.¹⁸⁰

Another explanatory factor of European success in environmental matters can be traced back to the arrangement of a evolved control system of monitoring and sanctioning that, on the contrary, cannot be found in international law, often known for its shortcomings in terms of structural effectiveness. In particular, the monitoring of the application of European environmental law and implementation of EU environmental policies represent the most powerful «cornerstone of EU environmental public policies»¹⁸¹.

At European level, the principles, the policies, the objectives of Art. 191 TFEU par. 1-3 constitute legally binding obligations for Member States.

Any unjustified failure in this can be sanctioned by the Court of Justice, in its turn activated by the Commission by starting infringement procedures pursuant to art.258 TFUE. In addition to this, even the role of individuals and NGOs is put to good use, by acting as "confidential informants" to the Commission in cases of alleged infractions/violations.

¹⁸⁰ Krämer L., *Regional economic Integration Organizations: The European Union as an example*, in Brunnée J., Bodansky D., Hey E., The Oxford handbook of international environmental law, Oxford University Press, 2007

¹⁸¹ Krämer L., *Regional economic Integration Organizations: The European Union as an example*, in Brunnée J., Bodansky D., Hey E., The Oxford handbook of international environmental law, Oxford University Press, 2007

As deterrent, it has been provided a penalty mechanism to laggard member States, under which they may be condemned to pay lump sums and penalty payments, if they do not adopt the measures deemed necessary for the implementation of a sentence pronounced by the Court. More precisely, pursuant to art. 258 and art. 260 TFEU, if the Commission considers that a Member State has failed to fulfill an obligation under the Treaties, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations. If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice of the European Union. Then, if the Court of Justice of the European Union finds that a Member State has failed to fulfill an obligation under the Treaties, the State shall be required to take the necessary measures to comply with the judgment of the Court. If the Commission considers that the Member State concerned has not taken the necessary measures to comply with the judgment of the Court, it may bring the case before the Court after giving that State the opportunity to submit its observations. It shall specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances. If the Court finds that the Member State concerned has not complied with its judgment it may impose a lump sum or penalty payment on it¹⁸².

The entire procedure, broadly outlined here, has been shown to work very well in environmental matters since the 1980s, when the Commission took more

¹⁸² See art. 258 and art. 260 TFEU

seriously its role of “*watchdog*”.¹⁸³ Again, according to a Neoinstitutionalist approach, the above-mentioned norms and procedures are inherently linked to institutions: the European Parliament, the Commission, the Court and the Agency. They - individually and together - can be considered further crucial factors for the explanation of the success of the European environmental governance experience.

- ***A greening Parliament***

Given its historical attitude to deliberate on measures related to environmental matters, the European Parliament has obtained the reputation of «the Greenest EU Institution»¹⁸⁴, while the Parliamentary Committee Environment, Public Health and Food Safety as one of the most active, high-profile and influential Committees in the EP¹⁸⁵. Democratically elected by European citizens, the European Parliament also mirrors the awareness of European citizens towards environmental and climate issues. This is proved by the interesting results reported by *Special Eurobarometer 409* published in 2014, according to which half (50%) of all Europeans think that climate change is one of the world’s most serious problems and around one in six Europeans (16%) think it is the single most serious problem. The proportion of people who think that it is one of the

¹⁸³ Krämer L., *Regional economic Integration Organizations: The European Union as an example*, in Brunnée J., Bodansky D., Hey E., *The Oxford handbook of international environmental law*, Oxford University Press, 2007

¹⁸⁴ Burns C., *The European Parliament: the EU’s Environmental Champion?* in Jordan A., *Environmental Policy in the European Union*, Earthscan, 2005

¹⁸⁵ Weale A. et al., *Environmental Governance in Europe*, Oxford University Press, 2000

most serious problems ranges from 81% in Sweden to 28% in Estonia¹⁸⁶. More generally, climate change is perceived to be the third most serious issue facing the world, behind poverty, hunger and lack of drinking water, and the economic situation. In 2011 it was seen as the second most serious, with the economic situation now seen as more serious¹⁸⁷. Again, as for the problem of climate change, on a scale of 1-10, where 10 means an “extremely serious problem” and 1 represents “not at all a serious problem” the overall average score for the EU28 stands at 7.3. Nine in ten Europeans (90%) think that climate change is a very serious or a serious problem, with 69% scoring it 7-10 and 21% scoring it 5-6." Only a minority (9%) believe that climate change is not a serious problem (scoring it 1-4). These results are similar to those reported in 2010. Four in five Europeans (80%) agree that fighting climate change and using energy more efficiently can boost the economy and jobs in the EU, with around three in ten (31%) saying that they “totally agree”¹⁸⁸.

Europeans are most likely to think that responsibility for tackling climate change lies with national governments (48%), with slightly smaller proportions thinking responsibility lies with business and industry (41%) and the EU (39%)¹⁸⁹. One in four Europeans (25%) think they have a personal responsibility for tackling climate change. Half (50%) of all Europeans report that they have taken some form of action in the past six months to tackle climate change. Since 2011 there has been a small decrease in the proportion claiming to have taken any action over the past six months (-3 percentage points). Respondents in Sweden are the

¹⁸⁶ Special Eurobarometer 409 / Wave EB80.2 – TNS Opinion & Social, 2014

¹⁸⁷ Special Eurobarometer 409 / Wave EB80.2 – TNS Opinion & Social, 2014

¹⁸⁸ Special Eurobarometer 409 / Wave EB80.2 – TNS Opinion & Social, 2014

¹⁸⁹ Special Eurobarometer 409 / Wave EB80.2 – TNS Opinion & Social, 2014

most likely to say that they have taken some form of action (80%), compared with a quarter or less of people in Estonia (25%) and Romania (23%). When prompted with a list of specific actions to fight climate change, and with no timescale specified, the proportion reporting that they have taken some form of action rises to 89% of all Europeans, with this figure showing an increase since 2011¹⁹⁰. The action Europeans are most likely to say they have taken is to reduce their waste and regularly recycle it (69%). The other actions most widely undertaken include: trying to cut down on the use of disposable items (mentioned by 51%); buying local and seasonal produce whenever possible (36%); choosing new household appliances mainly because they are more energy-efficient (34%); regularly using environmentally-friendly forms of transport as an alternative to their own car (28%); and improving home insulation to reduce energy consumption (21%). Just over nine in ten Europeans (92%) think that it is important for their government to provide support for improving energy efficiency by 2030, with around half (51%) saying that it is “very important” for their government to do so. Nine in ten Europeans (90%) think that it is important for their government to set targets to increase the amount of renewable energy used by 2030, with around half (49%) saying it is “very important”. Seven in ten Europeans (70%) agree that reducing fossil fuel imports from outside the EU could provide the EU with economic benefits, with around one in four (26%) saying they “totally agree”¹⁹¹.

The increasing attention of European citizens towards environmental issues is also witnessed by the composition of the European Parliament. This representative institution welcomed its first Green MEP in 1984. Then, the

¹⁹⁰ Special Eurobarometer 409 / Wave EB80.2 – TNS Opinion & Social, 2014

¹⁹¹ Special Eurobarometer 409 / Wave EB80.2 – TNS Opinion & Social, 2014

institution continued to represent environmental instances directly in growing political numbers, with the extraordinary (and to some extent unexpected) success 1989 election, when 28 MEPs Greens entered Parliament.

After the last elections in May 2014, the European parliamentary group Greens/EFA counts 50 MEPs from 17 countries. In addition to this, GUE/NGL (Group of the European United Left/Nordic Green Left) has a parliamentary group of 52 Members from 19 different political delegations and 14 countries. All of them seats at the European Parliament. The environmental issue has, in fact, gained popularity and political representation, also thanks to the validity of a European electoral proportional system, therefore most attentive to the representation of different emerging instances (environmental ones included). The British scholar Maria Lee, writing about the alleged *democratic deficit* in the EU, argues that the citizens' right to environmental information constitutes an essential key to enhance the process of democratization of the Union. Despite the significant changes introduced by the Aarhus Convention in 1998, information mechanisms still seem to be weak so as to require an effort of "almost heroic" compensation by the EU institutions¹⁹².

Within this framework, the role of the European Parliament reopens the debate on the complex relationship between environmental sustainability and democratic accountability. In the field of political liberalism, green political theorists advocate accounts of a empirical connections between environmental protection and democracy¹⁹³, as well as that democratic regimes would tend to enhance better protection of common goods such as environment and climate. In

¹⁹² Lee M., *EU Environmental Law: Challenges, Change and Decision-Making*, Hart Publishing, 2005

¹⁹³ Dobson A., *Green political thought*, Routledge, 2000

an on-going theoretical framework characterized by various definitions of democracy¹⁹⁴ and various definitions of sustainability¹⁹⁵, the leading green political mainstream now seems to agree to the existence of an empirical linkage between sustainability and democracy, such that democracy would work as transmission mechanism for boosting the protection of the environment¹⁹⁶.

According to such theoretical mainstream, there is evidence to suggest that democratic decision-making is more conducive to environmental protection than non-democratic regimes¹⁹⁷. In details, consensual democracy would demonstrate a higher level of environmental performance than adversarial democracy, because of the effort consensual democracy makes to integrate seemingly conflicting values in a deliberative way¹⁹⁸. From a juridical perspective, this has been therefore solemnly affirmed at Principle 10 of the Rio Declaration 1992, according to which «environmental issues are best handled with the participation of all concerned citizens at the relevant level»¹⁹⁹. Then, if we move to adopt a historical perspective, the consistency of the above-mentioned correlation can be quite easily proved by the low level of environmental protection characterizing non-democratic regimes of Eastern Europe during the era of Bipolarism. The most patent example of that was represented by the Chernobyl nuclear disaster

¹⁹⁴ For a comprehensive definition of democracy see Sartori G., *The Theory of Democracy revisited*, Chatham House Publishers, 1987

¹⁹⁵ As for the numerous possible definitions of sustainability, see Beckwith S., Thornton J., *Environmental Law*, Thomson Sweet&Maxwell's Textbook Series, 2004

¹⁹⁶ See Dobson A., *Green political thought*, Routledge, 2000. See also Holden B., *Democracy and global warming*, Continuum 2002

¹⁹⁷ Dryzek J., Stevenson H., *Democratizing the global climate regime*, in *Interpretive Approaches to Global Climate Governance. (De)constructing the greenhouse*, Routledge, 2013

¹⁹⁸ For a review of this evidence, see Poloni-Straudinger L., *Are Consensual Democracies environmentally more effective?* *Environmental Politics*, 17, 3, 2008

¹⁹⁹ See Rio Declaration 1992

(1986) which revealed how a non-democratic system like Communism could not match well with the goal of sustainability and public transparency²⁰⁰.

Nowadays, political liberal literature on the *greening* of liberal societies starts being vast and ongoing. Environmental issues are widely recognized among Western democracies to be one of the most compelling priorities of the XXI century²⁰¹. However, while the correlation between democracy, environmental protection, *greening* of liberal societies has started being largely explored and stressed by the most recent political literature, such theory seems to present a few limits.

Such theory would be confirmed if applied to the Chinese case (non democratic and reluctant²⁰² to commit legally binding GHG reduction's constraints). However, the same theory would appear to be drastically denied if tested on the US case (democratic but reluctant too)²⁰³. As for the EU case, the democratic nature of the EU Member States (at national level) and the democratic nature of the European Parliament (at the supranational level) certainly represent relevant factors that can contribute to explain the special emphasis of the Union towards the environment and climate, but it cannot be considered the only explanatory factor in the analysis. This is to say that the democratic elements are the foundations, not the edifice.

²⁰⁰ In this sense, see Duroselle J.B., *Histoire diplomatique de 1919 à nos jours*, Dalloz, 1997

²⁰¹ See Giddens A., *The politics of Climate Change*, Polity books, 2009

²⁰² For the distinction criteria between enthusiastic countries and reluctant countries see Victor D., *Global warming gridlock. Creating More Effective Strategies for protecting the Planet*, Cambridge University Press, 2011

²⁰³ Ibidem

This been said, democracy is presumably a necessary, but not sufficient condition to explain the adoption of advanced environmental policies. Presumably, other variables intervene to explain the success of the EU in the environmental policy-area. Together with the democratic nature of the EU States and the EU Parliament, some of these factors can be found through the school of institutionalism itself (the presence of Supranational Institutions, transnational scientific agencies and NGOs). All of them – under different degrees and levels of analysis – can contribute to understand the complexity of the phenomenon that we are going to investigate.

- ***A greening Commission***

The European Commission is the institution with the power of initiative of EU policy and the responsibility for ensuring that policies are properly implemented by Member States. By working at supranational level, the Commission is aimed at pursuing the general interest of the Union as a whole. Within the general interest it is no doubt included also the protection of the environment.

More precisely, the Commission is a key-institution in environmental policy-making. Its responsibilities include the exercise of power of investigation, power of proposal, evaluation and control of EU law²⁰⁴. As far as environmental policy is concerned, the Commission has been also the author of seven Environmental Action Programs and it should be recognized that, without it, the environment might not have received the attention it has got thanks to the relevant role of the Commission. As «creative and productive policy-entrepreneur»²⁰⁵, the Commission has been able to give a push to the development of environmental

²⁰⁴ McEldowney J., McEldowney S., *Environmental Law*, Pearson Education, 2010

²⁰⁵ McCormick J., *Environmental Policy in the European Union*, Palgrave Ed., 2001

policy, due to its often highly technical nature. Its acting for the general interest of the Union has given the EU more autonomy and space in the environmental field, where otherwise the efforts of individual States *uti singuli* would have not been sufficiently able to ensure adequate protection of the environment. In its role as “guardian” of the Treaties, the Commission has to ensure that European measures to be properly applied. More precisely, it has also to ensure not only that the European environmental legislation to be formally incorporated into the national legal systems, but also that this is actually applied²⁰⁶.

The figures of the European Commissioner for the Environment and the Climate Action Commissioner represent a driving force behind the increasing volume of environmental legislation. As separate institutional articulations, the two Directorates-General have strengthened the role of the Commission in environmental policy-area, by providing new administrative capacities²⁰⁷. Such role is not limited to the EU internal environmental policy. Indeed, the inextricable link between EU internal climate change policy and the position adopted by the EU in international climate change politics makes the Commission’s role crucial in the development of the internal policy which then becomes the common policy of the EU projected at global level²⁰⁸.

- **A greening Court of Justice**

²⁰⁶ Krämer L., *Regional economic Integration Organizations: The European Union as an example*, in Brunnée J., Bodansky D., Hey E., *The Oxford handbook of international environmental law*, Oxford University Press, 2007

²⁰⁷ See Barnes P., *The role of the Commission of the EU. Creating external coherence from internal diversity*, in Connelly J., Wurzel R., *The European Union as a leader in international climate change politics*, Routledge, 2011

²⁰⁸ See Barnes P., *The role of the Commission of the EU. Creating external coherence from internal diversity*, in Connelly J., Wurzel R., *The European Union as a leader in international climate change politics*, Routledge, 2011

Here, the role of the European Court of Justice is particularly relevant not only because it guarantees the effective compliance of European environmental law, by ruling and imposing financial penalties on Member States that infringe EU law²⁰⁹, but also - and mostly - because it has often demonstrated a general orientation to a more open and wider interpretation of EU environmental directives and more generally of European environmental law. In this sense, its judicial rulings in environmental matters has played a “creative and propulsion” role, as largely proved by the Court’s tendency to reject restrictive and often minimalist readings of EU law as regards environmental protection²¹⁰.

As notably observed by Krämer, the «environmental witness» provided by the Court of Justice over the past twenty-five years has been almost always positive, by trying to interpret existing EU legislation in the most favorable and advanced way for environmental instances²¹¹.

• **A *greening* Agency: the European Environmental Agency (EEA): to inform is to form.**

One of the main problems in international environmental law is that individual States remain the main (if not the only) source of data and information on the state of the environment falling under their jurisdiction.

²⁰⁹ See Van Schaik L., *The Sustainability of the EU’s Model for Climate Diplomacy*, in Oberthür S., et al., *The New Climate Policies of the European Union*, VUBPRESS 2010.

²¹⁰ Lavrysen L., *European Court of Justice and Implementation of Environmental law*, in Macrory R., *Reflections on 30 Years of EU Environmental Law, A high Level of Protection*, Europa Law Publ., 2005

²¹¹ Krämer L., *The future Role of the ECJ in the Development of European Environmental Law*, in Hans J.H., *The European Convention and the Future of European Environmental Law*, Europa Law Publishing, 2003

The European Environmental Agency was originally set in 1990 in order to fix this problem and to become an authoritative, reliable supranational source of environmental information all around the territory of the European Union²¹². Whereas it is true that some of information going to Copenhagen still come directly from the States, it is also true that independent "satellites" (such as scientific committees and non-institutional channels of European environmental groups and associations acting as "environmental watchdogs") have properly been established.

The right to participation stems from the right to information. In its turn, the right to information derives from the monitoring power²¹³. In the light of these logical steps, suffice it to show how crucial is the role played by the European Environment Agency (EEA) for the right to information and, as a consequence, the right to participation. In fact it contributes to guarantee the monitoring, information, participation and, ultimately, the democracy within the European environmental governance. The European Environment Agency is not an EU institution in the proper sense of the term, but a decentralized Agency of the EU that collects data and environmental information from different Member States to carry out its evaluation.

According to its original mandate, the EEA's task is to provide sound, independent information on the environment. Its main duty consists of helping the Union make informed decisions about improving the environment, integrating environmental considerations into economic policies and moving

²¹² See www.eea.europa.eu

²¹³ Jordan A., *Impact on UK Environmental Administration*, in Lowe P., Ward S., 1998, *British Environment Policy and Europe. Politics and policy in transition*, Routledge, 1998

towards sustainability²¹⁴. The EEA's main clients are the European Union institutions — the European Commission, the European Parliament, the Council — and the same member States. In addition to this central group of European policy actors, even the business community, academia, non-governmental organizations and other parts of civil society are also important users of EEA's information²¹⁵.

Hailed as a «positive step»²¹⁶ for the well-functioning of the European environmental governance, the Agency was formally established in 1990 with Regulation 1210/90, even though the initial lack of agreement among Member States on the location of the headquarter has delayed the effective opening of the Agency which came into operation only in December 1993 in Copenhagen. The reason for its establishment must be found in the late 1980s, when the increasing popularity of the EEC's environment policy led the Greens' Group of the European Parliament to issue the idea of creating something corresponding to the American example of the U.S. Environmental Agency at European level.

Under these circumstances, the Delors Commission issued the Regulation 1210/90 establishing the European Environment Agency. In order to avoid the opposition of Member States within the Council, the Agency had been initially set up as an organization without formal role in the field of inspection and enforcement. In the lack of precedents that could have been helpful in clarifying certain ambiguities about its political and legal status, the Agency received internal autonomy and external independence. This recognition has often kept it

²¹⁴ See <http://www.eea.europa.eu/about-us/who>

²¹⁵ See <http://www.eea.europa.eu/about-us/who>

²¹⁶ Connelly J., Smith G., *Politics and the Environment: from Theory to Practice*, Routledge, 1999

away from formalisms which characterized the Commission's procedures and, in particular, the quite limited room for manoeuvre of DG Environment²¹⁷.

The Agency has among its main objectives the collection and analysis of environmental information, the establishment of a common system of environmental information for the European Union and the setting-up of a network observatory system for the achievement of EU objectives in the environmental field. Its main duty consists of collecting, processing and providing environmental information which shall be «objective, reliable and comparable» at European level so as to give the Union and the States the right information to take the necessary measures to protect the environment, to assess the results of such measures and to ensure that the public is properly informed about the State of the health of environment²¹⁸. Given the widening character of its mandate, the Agency established from the very beginning its own *modus operandi*, by tuning its relationships with the Commission and the European Parliament in order to avoid unnecessary overlaps or duplications in their respective matters of competence.

Broadly speaking, a common mistake is the wide-spread tendency to underestimate the role of the EEA, on the ground of its neutrality and alleged exclusion from the decision-making processes. According to this minimalist reading, the Agency would simply collect and process «objective, reliable and comparable» data, necessary for the policy-making of the EU environmental public policies and their effective implementation (Regulation 1210/90, art. 2).

²¹⁷ Wynne B., Waterton C., *Public Information on the Environment: the role of the European Environmental Agency*, in Lowe P., Ward S., *British Environmental Policy and Europe: Politics and Policy in Transition*, Routledge, 1998

²¹⁸ Council Regulation 1210/90, Art.2 OJ L120, 11 May 1990

Even though the EEA may not have a direct role in developing strategic choices on environmental policy, whose responsibility is primarily attributed to the European Commission, it has also to be noticed the gradual strengthening of the Agency's function as a special partner with the Commission, especially in the phases of identification, monitoring and assessment of environmental risk management and assessment²¹⁹.

In short, the intrinsic value of information lies in the fact that it enables the Union and the Member States to make decisions about the environment. In this way, information simultaneously becomes a «preparatory»²²⁰ and a «strategic»²²¹ instrument to adopt, implement and evaluate European environmental policies. In practice the line between neutral information and formulation of public policy is very thin and ambiguous. In other words, the Agency has a role which, although not directly involved in the decision-making process, remains crucial. As noted from former Director EEA Beltran when he was asked how the EEA should have dealt with information exposed to a high risk of politicization by organized interest groups, he answered : «The Agency is a watchdog without teeth, but the best tooth today is written information [...] If you have good information, the public and the Administration will do everything else»²²². What is more, the concept of comparability of environmental

²¹⁹ Montini M., Alberton M., *La Governance Ambientale europea in transizione*, Giuffré Ed., Università Siena, 2008

²²⁰ Montini M., Alberton M., *La Governance Ambientale europea in transizione*, Giuffré Ed., Università Siena, 2008

²²¹ Wynne B., Waterton C., *Public Information on the Environment: the role of the European Environmental Agency*, in Lowe P., Ward S., *British Environmental Policy and Europe: Politics and Policy in Transition*, Routledge, 1998

²²² Quoted in Wynne B., Waterton C., *Public Information on the Environment: the role of the European Environmental Agency*, in Lowe P., Ward S., *British Environmental Policy and Europe: Politics and Policy in Transition*, Routledge, 1998

information tends here to play a crucial role, because the Agency is also responsible for the so-called standardization of European environmental information, by pooling together different sources and national information systems (starting from the definition of waste which has varied from State to State), in order to reach a sufficient coherent level of uniformity that can allow the same Agency to do one of its main duties related to data: comparison and rationalization, here also understood as a cultural process²²³. As consequence, standardization and harmonization of environmental information at European level finish up rekindling the ongoing debate on the distinction between information as fact-finding (merely descriptive) and decision-making as prescriptive moment. Indeed, the time of scientific knowledge and the time of political decision seem to go together in a process of mutual construction. It flows from this that both the effectiveness of knowledge and the effectiveness of decision-making cannot be seen as solely arising from institutionalized models. The sources of credibility and legitimacy are progressively becoming much wider and independent from traditional institutional channels such as the State, to include the informal networks²²⁴ of academia, civil society²²⁵, business communities in a decentralized, fruitful process enriched by the contribution of plurality of voices expressed by institutional and non-institutional players. This

²²³ Jimenez-Beltran D., *European Environmental Agency :Putting Information to Work*, EEA Publication, Copenhagen, 1994

²²⁴ For the multiple concept of network conceived as «new principle of socio-political organization», «new tool of social analysis» and «new metaphor for the logic of the modern epoch», first grounded on education and community-building, see Castells M., *The Rise of the Network Society: the Information Age*, Blackwell, 1996. See also Hoffmann M., *Climate Governance at the Crossroads. Experimenting with a global response after Kyoto*, Oxford University Press, 2011

²²⁵ For a comprehensive introduction to the role of Civil Society in the time of global transformations, see Marchetti R., *Civil Society, Global Governance and the Quest for Legitimacy*, in Telo' M., *Globalization, Multilateralism, Europe. Towards a Better Global Governance*, Ashgate, 2013

process is more evident in the public sphere of the environment where standardization of environmental information – led by the EEA – must therefore be seen as a collective learning between local and universal, between public and private, between the natural and the human²²⁶. In this way the Union itself becomes an arena able to draw and disseminate lessons. In other words, it can become a truly Epistemic Community²²⁷.

The legal scholar Jananoff captures the dynamics of this process in his study on standardization as a “reasoning together”: a fertile ground for the exchange of knowledge and not merely as a bureaucratic procedure²²⁸. The power of standardization therefore is expressed in re-thinking the common problems to come together for a common solution, through the extension of boundaries and parameters of knowledge to transfer best practices into a single socio-legal context. To harmonize, in short, becomes «the vehicle through which the players of a game with different opinions finally choose to run the risk to reason together»²²⁹.

Among the arguments in favor of the European Environment Agency there is not only the importance of the “information-transparency-participation-democracy” effect on environmental policy-making, but also another important characteristics:

²²⁶ Wynne B., Waterton C., *Public Information on the Environment: the role of the European Environmental Agency*, in Lowe P., Ward S., *British Environmental Policy and Europe: Politics and Policy in Transition*, Routledge, 1998

²²⁷ Jordan A., Wurzel R., Zito A., *Policy instrument innovation in the EU*, in *Multilevel Governance of Global Environmental Change, Perspectives from science, sociology and the law*, Cambridge University Press, 2006

²²⁸ Jananoff S., *Harmonization: the Politics of Reasoning Together*, in Bal R. and Halfman W., *The Politics of Chemical Risk*, Kluwer Academic Publishers, Dordrecht, Netherlands, 1998

²²⁹ Jananoff S., *Harmonization: the Politics of Reasoning Together*, in Bal R. and Halfman W., *The Politics of Chemical Risk*, Kluwer Academic Publishers, Dordrecht, Netherlands, 1998

it is the so-called «normative shaping power of information»²³⁰. In this sense, the former Director of EEA Jimenez-Beltran used to say: «We do not use stored data for the pleasure of completing an elegant yet arbitrary mathematical model or the single hypothesis that they might one day happen in the hands of someone. Our job is to put the data to work, to free information on goods and services, [...] and to expand future opportunities through knowledge and technology for the solution of real problems»²³¹. So, normative shaping power of information means that «information is seen no longer as sterile, but as an element that plays an active role and a potentially regulatory power, which normally opens windows of opportunity previously underestimated or regarded as marginal»²³².

In a more comprehensive perspective, it can be argued that the joint and structurally coordinated role of the European Parliament, the European Court of Justice, the EU Commission and the European Environment Agency – all as a supranational actors – has actively contributed to the success of environmental governance at European level. The EU environmental policy has gradually established itself first as a side-policy to the original economic engine of the European integration process, then an increasingly autonomous policy-area to take into serious account - if not a real «strategic counteroffer compared to other possible policy-priorities»²³³.

- **A greening Environmental Action Program**

²³⁰ See Lowe P., Ward S., *British Environmental Policy and Europe: Politics and Policy in Transition*, Routledge, 1998

²³¹ EEA, *Putting Information to Work*, EEA Publication, Copenhagen, 1994

²³² EEA, *Putting Information to Work*, EEA Publication, Copenhagen, 1994

²³³ Ripa di Meana C., *Sorci verdi, L'ambientalismo, la politica, le lotte di potere: quattro anni da portavoce dei Verdi*, Kaos Ed., 1997

According to the institutionalist approach, the presence of environmental Action Programs would have also contributed to the success of EU environmental policies and the overall well-functioning of European environmental regional governance. These Action Programs establish principles and policy objectives up to medium-long term commitments at the highest political level. In this way, the programs would focus public attention on transnational priorities, whose non-fulfillment would create the effect of being politically accountable. Furthermore, the possible success of such environmental Action Programs – including its multi-level mechanism for their joint implementation (UN, regional, State, local) – may finally have a domino-effect, with positive consequences in terms of progressive confidence-building and network spirit²³⁴.

- **Societal actors: the influence of NGOs and Business lobbying in Brussels.**

Another important factors for ensuring success to environmental policy is the role of environmental stakeholders and NGOs. As for the Business sector, it can be first mentioned *BusinessEurope*, the umbrella group for European companies. Within this organization, there is often a division between those businesses which oppose EU advanced environmental policy measures because they would lead to increased costs of production and, on the other hand, those businesses which encourage ambitious measures in the field of environmental protection because the introduction of such eco-friendly measures would increase the

²³⁴ Krämer L., *The EU: a regional model?*, in Winter G., *Multilevel Governance of Global Environmental Change, Perspectives from science, sociology and the law*, Cambridge University Press, 2006

demand for their goods and services²³⁵. As for environmental NGOs – whose growing role has been often explained with their function of information/expertise services and legitimacy provider²³⁶ – it can be argued that NGOs' capability to influence the decision-making process mainly depends on their internal leadership, expertise, size of membership, reliable funding and communications technology²³⁷. Applying the underpinnings of this mainstream theory to the case of the environmental NGOs in Brussels, it can be argued that they largely reveal a quite strong, permanent structure. They communicate each other and - most of all - European NGOs, civil society movements and interest groups do organize in regional networks under the common inclusive grouping of the *Bureau Européen de l'Environnement* (EEB) set in 1974 in Brussels. The EEB is Europe's largest coalition of grassroots environmental organizations. This federation is composed of over 140 environmental organizations based in all 28 EU's Member States. According to its official mission statement, the EEB is the «environmental voice» of its members and European citizens. It focuses on influencing the EU policymaking implementation and assessment of its agreed policies. It aims to be effective by combining knowledge with representativeness, active involvement of its members and coalition building²³⁸.

²³⁵ See Weale A., *The New Politics of Pollution*, Manchester University Press, 1996. See also Weale A. et al., *Environmental Governance in Europe*, Oxford University Press, 2000

²³⁶ Bernauer T., Betzold C., *Civil Society in Global Environmental Governance*, *The Journal of Environment and Development*, 21, 2012. As for the service-delivery and democracy-enhancing functions that civil society can provide at international level, see Marchetti R., *Civil Society, Global Governance and the Quest for Legitimacy*, in Telo' M., *Globalization, Multilateralism, Europe. Towards a Better Global Governance*, Ashgate, 2013

²³⁷ Charnovitz S., *Two Centuries of Participation: NGOs and International Governance*. *Michigan Journal of International Law*, 18, 2, 1997

²³⁸ See <http://www.eeb.org/index.cfm/about-eeb/the-eebs-mission/>

The Commission often seeks their cooperation in the decision making process. Over the last five years, the Commission has also aimed to better structure its engagement with civil society in external relations, as proved by the European Commission's Communication of 12th September 2012 on *The roots of democracy and sustainable development: Europe's engagement with Civil Society in external relations*²³⁹. In this document, the Commission singles out three priorities for EU support: 1) to enhance efforts to promote a conducive environment for CSOs in partner countries; 2) to promote a meaningful and structured participation of CSOs in domestic policies of partner countries, in the EU programming cycle and in international processes; 3) to increase local CSOs' capacity to perform their roles as independent development actors more effectively.

Within this framework, the next CoPs set in Paris (December 2015) will be an interesting testing workbench for NGOs constructive capabilities and for the EU support. Meanwhile, the regional dimension of the *Bureau Européen de l'Environnement* (EEB) and the multilateral context where it operates on the occasion of the international UNFCCC CoPs may provide two potential strong points. The multilateral context where the EEB works does not only increase its visibility by transforming the fora alongside the CoPs in global stages, but it could also represent the right moment to catch the potential benefits coming from the so-called "international political opportunities structure" (IPOS), so as to expand the opportunities for resource mobilization and political access to government decision-making process²⁴⁰.

²³⁹ See COM(2012) 492 final

²⁴⁰ See Reiman K., *A View from the Top: International Politics, Norms, and the Worldwide Growth of NGOs*, *International Studies Quarterly*, 50, 2006

Against this institutional background, it can be confirmed that in the EU laboratory a remarkable set of formal and informal norms and supranational institutions working at regional level and operating under political and democratic accountability have advocated and europeanized higher environmental standards, while transnational networks of civil society²⁴¹ have increasingly spread general awareness around the issue of environmental protection among European people. Such complex combination of factors has contributed to make substantive improvements in the field of environmental protection within the Union.

Now, the step forward in our research consists of understanding whether – or not – the above mentioned institutionalist and transnationalist key-success factors of the EU regional environmental governance’s experience (the role of the EU Parliament, EU Commission, EU Court of Justice, EEA, Action Plans, Environmental NGOs) are likely to be applied, transferred or more simply communicated in other regional integration’s contexts such as ASEAN and MERCOSUR (see PART III).

On the one hand, the substantial lack of supranationality in the structure and functioning of ASEAN and MERCOSUR (see PART III) makes the possibility to “circulate” a European Parliament, a European Commission or a European Court of Justice in these areas of the world particularly difficult and unlikely at the

²⁴¹ For a comprehensive definition of transnational networks as «a permanent coordination among different civil society organizations (and sometimes individuals, such as experts) which is located in several countries and based on a shared frame for a specific global issue, developing both a protest and proposal in the form of joint campaigns and social mobilizations against common targets at national or supranational level», see Marchetti R., *Civil Society, Global Governance and the Quest for Legitimacy*, in Telo’ M., *Globalization, Multilateralism, Europe. Towards a Better Global Governance*, Ashgate, 2013

moment. Besides, such approach itself would be ontologically wrong, given the fact that the EU is something more than a typical regional organization. Supranational institutions establish actors and processes that are at least partly independent from Nation-States²⁴². This is not yet the case of the ASEAN and MERCOSUR, where a mature exercise of «pooling and sharing» of national sovereignties has not yet taken place.

On the other hand, the other above mentioned key-success factors of the EU regional environmental experience (such as the role of regional Environmental Agency, a regional Action Program and regional NGOs characterized by a softer and more creeping approach in dealing with national sovereignty's cession) represent environmental driving forces which appear to be more likely applicable in other regional integration areas of the world.

²⁴² Hochstetler K., *Fading Green? Environmental Politics in the Mercosur Free Trade Agreement*, *Latin American Politics and Society*, 45, 4, 2003

PART III :
THE GREENING OF THE EU, ASEAN AND
MERCOSUR IN A COMPARATIVE
PERSPECTIVE.

1. Why Comparative Regional Studies matter.

The third part of the research will investigate whether the EU experience can be borrowed in other regional integration areas. Such investigation will be undertaken within the framework of Comparative Regional Studies²⁴³. This is because, before analyzing if something of a case can be borrowed in another case, it is important to understand whether – and to what extent – both cases are comparable. With this respect, it can be first noticed that in the 1960s the role of comparison was still underdeveloped in the field of regionalism, measured to most of the other fields of social sciences²⁴⁴. The main reason of this delay came from the fact that the European experience was largely considered as a single, mostly *unique* case, trapped into the so-called “n=1 dilemma”²⁴⁵. Only later on, the proliferation of many other regional projects by far circumscribed to Europe started posing the conceptual problem of comparison in regionalism, under the impetus of the

²⁴³ As pointed out by Warleigh-Lack, comparative regional studies first of all mean to study regions and regional integration processes from a comparative perspective, moving from the John Stuart Mill’s original method of agreement and difference. Such exercise of comparison can be split into three main different areas of investigation: 1) comparing the historical processes of region-building; 2) comparing the political projects of region-building; 3) comparing the outputs of the regions. See Warleigh-Lack A., Van Langenhove L., *Rethinking EU Studies: The Contribution of Comparative Regionalism*, Journal of European Integration, Routledge, 32, 6, 2010

²⁴⁴ De Lombaerde P. et al., *The Problem of Comparison in Comparative Regionalism*, Review of International Studies, 36, 2010

²⁴⁵ For the conceptualization of the so-called “n=1 dilemma” referred to the European Union as *unique* (and so that incomparable) achievement worldwide, due to its high level of economic integration and institutionalization, see Van Langenhove L., Maes L., *Comparative Regionalist Studies*, in Telo’ M., Globalization, Multilateralism, Europe. Towards a Better Global Governance, Ashgate, 2013

multidimensionality and pluralism of the regional phenomenon occurring since the 1990s: in this decade we have witnessed a growing interest in comparing regionalisms as fields of study which entered a new phase of dynamism and expansion²⁴⁶. So, Regionalism beyond Europe became both a reality and an object of study²⁴⁷. As a consequence, regional comparative studies started acquiring and consolidating their academic autonomy, justified by the intellectual discovery that Europe was not (anymore) a n=1 case. Besides, the EU could have been compared to other regional laboratories around the world. As pointed out by Söderbaum, now the challenge of comparative regionalism consists of both including and transcending the European experience²⁴⁸, in a mutual, cross-fertilizing learning process of discovery and enrichment between the EU Studies and Regional Studies, the EU itself and other regional projects disseminated in different areas of the world, such as Asia and Latin America. This is the main reason why regional comparative studies do matter: they show (and reinsure) us that the EU is not an isolated case.

This been said, here the research will focus on two selected cases-study: the ASEAN and the MERCOSUR as emerging areas of regional integration. Moving from the premise that deviation from the orthodox EU blueprint may not mean that the environmental integration process or environmental

²⁴⁶ Shaw M. et al., *The Ashgate Research Companion to Regionalisms*, Ashgate, 2011

²⁴⁷ Sbragia A., *Review Article: Comparative Regionalism: What Might It Be?*, *Journal of Common Market Studies*, 46, 1, 2008

²⁴⁸ Söderbaum F., *Consolidating Comparative Regionalism: from Eurocentrism to Global Comparison*, Working Paper for the GARNET Annual Conference, University of Bordeaux, 2008

policy has failed²⁴⁹, such comparative exercise will imply the analysis of the key success factors of the EU and the institutional conditions/obstacles of circulation of it, moving from the European historical lesson, from its environmental «leadership by example» and its capacity-building potentials.

2. Environmental Governance in the ASEAN: the constructivist path towards a regional sustainability.

For the purpose of our discussion – before dealing with the specific functioning of the environmental governance in the ASEAN – it is worth briefly looking back to the origins of this regional organization and its original mission. The Association of Southeast Asian Nations (ASEAN) was originally established in 1967 in Bangkok, with the signing of the Bangkok Declaration by the ASEAN founding fathers, namely Indonesia, Malaysia, Philippines, Singapore and Thailand, whose governments originally shared little beyond anti-communism²⁵⁰. Later on, Brunei joined in 1984, Vietnam in 1995, Lao and Myanmar in 1997, and Cambodia in 1999, so making up what is today the ten Member States of the Association of Southeast Asian Nations.

Broadly speaking, the current ten members of the Association compose a huge region characterized by political, religious and cultural differences,

²⁴⁹ See Söderbaum F., Sbragia A., *EU studies meets the New Regionalism: What can be gained from dialogue?*, *Journal of European Integration*, 32, 6, 2010

²⁵⁰ Acharya A., *Constructing a Security Community in Southeast Asia: ASEAN and the problem of Regional Order*, Routledge, 2001

not to mention the economic ones. In this sense, industrialized countries such as Singapore, Thailand and Philippines coexist with least developed ones such as Laos and Myanmar. Besides, most of them can be considered quite young nations that achieved independence after the end of the European and American colonialism²⁵¹. Against such heterogeneous background, the Bangkok Declaration aimed at fostering the promotion of economic growth, social progress and cultural development in the region through joint endeavors in the spirit of non-interference in internal affairs of one another, equality and partnership in order to strengthen the foundation for a prosperous and peaceful community; the promotion of regional peace and stability through abiding respect for justice and the rule of law in the relationship among countries of the region and adherence to the principles of the United Nations Charter; then, the promotion of active collaboration and mutual assistance on matters of common interest in the economic, social, cultural, technical, scientific and environmental fields²⁵².

Composed of three pillars (namely the ASEAN Political-Security Community, the ASEAN Economic Community and the ASEAN Socio-Cultural Community), the ASEAN is nowadays often deemed as the higher expression of the so-called «Asian regionalism»²⁵³, here understood as the multilateral approach to solve common problems and as an important instrument to ensure peace and stability in the region.

²⁵¹ See Dent M., *East Asian Regionalism*, Routledge, 2008

²⁵² <http://www.asean.org/news/item/the-asean-declaration-bangkok-declaration>

²⁵³ See Dent M., *East Asian Regionalism*, Routledge, 2008

From a historical point of view, it can be argued that - since its setting up - the ASEAN's evolution has been split in two important phases: the Cold war and the post Cold War²⁵⁴. While the Cold War period was largely affected by inter-states conflicts in the South-East region, the end of the Cold War paved the way to a fruitful intensification of regional cooperation in important issues - such as immigration, drug trafficking, terrorism, energy security, maritime piracy and environmental depletion. The main feature of such no-border issues was the raising awareness that they could not be addressed unilaterally, because their inherent nature would have required a multilateral approach among the States of the region.

On such basis, ASEAN has progressively grown over the last two decades, becoming an important regional forum to discuss and promote matters of regional interest²⁵⁵, largely oriented to the construction of a regional identity which has been facilitated by the avoidance of institutional *grand designs* and an informal consensual approach²⁵⁶.

For the purposes of our discussion, ASEAN has been selected because it is a relatively young laboratory of regional governance in which the dimension of cooperation in the field of environmental protection has

²⁵⁴ See Sheldon S., *Security aspects in South East Asia: Collaborative efforts and the Asean Regional Forum*, The Pacific Review, Routledge, 2007

²⁵⁵ See Minuti A., *Asean e mantenimento della pace nel quadro del sistema Nazioni Unite*, in Lattanzi F., Spinedi M., *Le Organizzazioni regionali e il mantenimento della pace nella prassi di fine XX secolo*, Editoriale scientifica, 2004

²⁵⁶ For the identity-building process in the ASEAN, inspired on the fourth ideas of "cooperative security", "open regionalism", "soft regionalism" and "flexible consensus", see Acharya A., *Ideas, identity, and Institution-building: From the ASEAN way to the Asia-Pacific way?*, The Pacific Review, 10, 3, 1997

recently taken a twofold importance both from a scientific and political point of view²⁵⁷. The coexistence of both these dimensions has found its highest expression in the concept of ASEAN as a «single ecosystem»²⁵⁸, first used in the official text of the Cooperation Plan against Transboundary Air Pollution in 1995. As noted by Elliot, this has been an important statement for ASEAN regional identity and identity-building process²⁵⁹. From a constructivist point of view and according to the theorists of «cognitive regionalism»²⁶⁰, the identification of the ASEAN as ecosystem builds the image of a South-east Asia with common interests in safeguarding a unique ecosystem and a strong ecological identity²⁶¹. Besides, the path followed by ASEAN has not been formalistic at all. This would have been extremely difficult because of the nature of a organization giving historical priority to the substantive importance of informal network style rather than a formal process of institutionalization.

In the light of this premise, it is now possible to better understand why - in the framework of environmental cooperation - the effort made by the Member States of ASEAN went in the direction of building a progressive image of regional identity coinciding with the idea of ecological identity

²⁵⁷ Elliott L., *ASEAN and environmental governance: strategies of Regionalism in Southeast Asia*, Global Environmental Politics, 12,3, 2012

²⁵⁸ See Cotton J., *The "Haze" over Southeast Asia: Challenging the ASEAN Mode of Regional Engagement*, Pacific Affairs, 72,3, 1999

²⁵⁹ See Elliott L., *ASEAN and environmental governance: strategies of Regionalism in Southeast Asia*, Global Environmental Politics, 12,3, 2012

²⁶⁰ For a scholarly debate on regionalism and identity, see Higgott R., *Alternative models of regional cooperation? The limits of regional institutionalization in East-Asia*, in Telo' M., *European Union and New Regionalism*, Ashgate, 2007

²⁶¹ See Elliott L., *ASEAN and environmental cooperation: norms, interests and identity*, The Pacific Review, 16,1, 2003

(ASEAN: unique ecosystem). Historically, the attention towards the environmental issue within the organization dates back to 1977, the year of the first ASEP (Asean Sub-regional Environmental Program). In compliance with the ASEAN spirit, this initial phase was characterized by a high degree of informality, witnessed by Joint Declarations, acts of soft law, general principles and not legally binding guidelines. The main goal achieved during this phase of environmental cooperation was to maintain a «continuous availability of natural resources»²⁶² as essential elements to ensure the economic development of individual Member States. This is the setting that emerged at the conclusion of the first Ministerial Meeting of Asean on Environment in 1981 (ASEAN Ministerial Meeting on the Environment). From that meeting, the environment gradually became a subject of regional cooperation, by gaining new discussion spaces and consensus within the organization agenda. A critical turning point in the process of regional ecological identity-building occurred in 1995 on the occasion of the adoption of the above-mentioned Cooperation Plan on Transboundary Pollution where it is stated for the first time that the ASEAN region represents «a unique ecosystem».

In 1995 the Organization's Member States symbolically proclaimed 1995 the ASEAN Year of Environment, thus powering up the so-called process

²⁶² ASEAN Ministerial Meeting on the Environment 1981. See <http://environment.asean.org/>

of «ASEAN-anization of environmental governance»²⁶³, inspired by the criteria of informal policy, networks, action plans, Joint Declarations which increasingly found an external projection of Asean common position in international conferences on climate and the environment²⁶⁴. An example of this is well represented by the observer status of Asean at the UNFCCC Conference of Parties²⁶⁵. In this direction, the ASEAN Leaders at the regional level have issued Joint Statements related to climate change in Climate Change UN Summits since Copenhagen in 2009 up to Lima 2014. Through these Statements, the ASEAN Leaders have expressed ASEAN's common position and aspirations towards a global solution to the challenge of climate change and their will to achieve an ASEAN community resilient to climate change through national and regional actions²⁶⁶. With particular regard to the ASEAN Joint Statement on Climate Change 2014, it can be noticed that the Heads of State/Government of ASEAN Member States declared «to call upon all Parties to the UNFCCC, including ASEAN Member States, to work effectively and in good faith to adopt a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all by the end of 2015, and to table their Intended Nationally Determined

²⁶³ See Elliott L., *ASEAN and environmental cooperation: norms, interests and identity*, Pacific Review, 16,1, 2003

²⁶⁴ Elliott L., *ASEAN and environmental governance: strategies of Regionalism in Southeast Asia*, Global Environmental Politics, 12,3, 2012

²⁶⁵ See http://unfccc.int/parties_and_observers

²⁶⁶ See <http://environment.asean.org/asean-working-group-on-climate-change/>

Contributions well in advance of COP21 in Paris in December 2015 or by first quarter 2015 by those Parties ready to do so»²⁶⁷.

As for the regional internal dimension, an historical turning point in the ASEAN regionalism has also been represented by the ASEAN Vision 2020, adopted in 1998 by the ASEAN leaders on the 30th Anniversary of ASEAN. On that occasion they agreed on a shared vision of ASEAN as a concert of Southeast Asian Nations, outward looking, living in peace, stability and prosperity, bonded together in partnership in dynamic development and in a community of caring societies²⁶⁸. According to the ASEAN Vision 2020, the concert of Southeast Asian Nations also «envisions a clean and green ASEAN with fully established mechanisms for sustainable development to ensure the protection of the region's environment, the sustainability of its natural resources, and the high quality of life of its peoples»²⁶⁹. What is more, the concert of Southeast Asian Nations «envision the evolution in Southeast Asia of agreed rules of behavior and cooperative measures to deal with problems that can be met only on a regional scale, including environmental pollution and degradation, drug trafficking, trafficking in women and children, and other transnational crimes»²⁷⁰.

²⁶⁷ See <http://www.asean.org/news/asean-statement-communicues/item/asean-joint-statement-on-climate-change-2014>

²⁶⁸ See <http://www.asean.org/news/item/asean-vision-2020>

²⁶⁹ Ibidem

²⁷⁰ Ibidem

Later on, it is also worth mentioning the ASEAN Charter 2007, serving as a firm foundation in achieving the ASEAN Community by providing legal status and institutional framework for ASEAN. It codifies common norms, rules and values; sets clear targets for ASEAN; and presents accountability and compliance. The point 9 of the Charter solemnly states that the purpose of the ASEAN also includes «to promote sustainable development so as to ensure the protection of region’s environment, the sustainability of its natural resources, the preservation of its cultural heritage and the high quality of life of its people»²⁷¹.

Within the framework of the ongoing Roadmap for Asean Community 2009-2015, the ASEAN countries have been responding to climate change by focusing on the implementation of relevant initiatives within the ASEAN Socio-Cultural Community (ASCC) Blueprint 2009-2015. Section D10 of the Blueprint is titled “Responding to Climate Change and addressing its impacts”. It states the strategic objective of «enhancing regional and international cooperation to address the issue of climate change and its impacts on socio-economic development, health and the environment in ASEAN Member States through implementation of mitigation and adaptation measures, based on the principles of equity, flexibility, effectiveness, common but differentiated responsibilities, respective capabilities, as well as reflecting on different social and

²⁷¹ See <http://www.asean.org/archive/publications/ASEAN-Charter.pdf>

economic conditions»²⁷². The actions provided in the Blueprint are eleven and include: 1) Encourage ASEAN common understanding on climate change issues and, where possible, engage in joint efforts and common positions in addressing these issues; 2) Promote and facilitate exchange of information/knowledge on scientific research and development (R&D), deployment and transfer of technology and best practices on adaptation and mitigation measures, and enhance human resource development; 3) Encourage the international community to participate in and contribute to ASEAN's efforts in reforestation, as well as to reduce deforestation and forest degradation; 4) Develop regional strategies to enhance capacity for adaptation, low carbon economy, and promote public awareness to address effects of climate change; 5) Enhance collaboration among ASEAN Member States and relevant partners to address climate related hazards, and scenarios for climate change; 6) Develop regional systematic observation system to monitor impact of climate change on vulnerable ecosystems in ASEAN; 7) Conduct regional policy, scientific and related studies, to facilitate the implementation of climate change convention and related conventions; 8) Promote public awareness and advocacy to raise community participation on protecting human health from the potential impact of climate change; 9) Encourage the participation of local government, private sector, NGOs, and community to address the impacts of climate change; 10) Promote strategies to ensure that climate change initiatives lead to economically vibrant and environment friendly ASEAN

²⁷² See <http://www.asean.org/archive/publications/ASEAN-Charter.pdf>

Community taking into account win-win synergy between climate change and the economic development; 11) Encourage the efforts to develop an ASEAN Climate Change Initiative (ACCI)²⁷³.

As regards the latter point, the Asean Socio-Cultural Community has developed an ASEAN Climate Change Initiative (ACCI) in 2010. Falling within the category of so-called “non-traditional security issues”, this initiative has been promoted by the Environment Ministers of the Member States for the purpose of preparing a consultative platform for coordination and regional cooperation on issues related to climate change, including exchange of information, capacity-building and transfer of environmentally friendly technologies. To implement this initiative, the ASEAN Working Group on Climate Change was established. It acts as Executive body of coordination currently chaired by Thailand²⁷⁴.

Operationally, ASEAN Member States have taken various actions to address climate change through various environmental, economic and social initiatives over the last decade. Most of ASEAN Member States have announced voluntary mitigation targets, including Indonesia (emission reduction of 26% from business-as-usual *BAU* by 2020, to be increased to 41% with enhanced international assistance), Malaysia (reduction of 40% in terms of energy intensity of GDP by 2020 compared to 2005 levels), Philippines (deviate by 20% from *BAU* of their emission

²⁷³ See <http://environment.asean.org/asean-working-group-on-climate-change/>

²⁷⁴ See <http://environment.asean.org/asean-working-group-on-climate-change/>

growth path), and Singapore (emission reduction of 16% below *BAU* by 2020)²⁷⁵.

All in all, the ASEAN action on climate change is predominantly focused on strengthening adaptive capacity in urban development projects, through adaptation policies, which means the complex set of measures undergone in response to climate change, in order to reduce its negative impacts on human life²⁷⁶. Despite the existence of considerable implementation deficits at the level of individual States and the shortage of financial resources necessary for the implementation of the integrated environmental policies on a regional scale, the environmental governance system of the ASEAN represents an interesting laboratory for regional cooperation in progress, where the need to seek common responses to the problem of environmental degradation was proposed in such innovative and original terms, to become – quite paradoxically – consistent with the original classical principle of ASEAN: the principle of non-interference. Indeed, environmental degradation itself has been seen as a form of interference, because it affects the quality of the environment of other States and, ultimately, of the entire regional ecosystem²⁷⁷. As for the limited use of institutionalized mechanisms, this point shall not necessarily be interpreted as a weakness of ASEAN, but - on the contrary - as a potential element of strength: through

²⁷⁵ Ibidem

²⁷⁶ Francisco H., *Adaptation to Climate Change: needs and opportunities in Southeast Asia*, 25,1, ASEAN Economic Bulletin 7, 2008

²⁷⁷ Elliott L., *ASEAN and environmental cooperation: norms, interests and identity*, Pacific Review, 16,1, 2003

the «Asean spirit»²⁷⁸, it has been possible to strengthen the ties of cooperation between Member States in environmental matters, as witnessed by the mechanism of cooperation and joint management for the development of the Mekong, the great river that runs through the entire “unique regional ecosystem”.

Put in a comparative perspective with what argued about the EU experience in PART II of our research, the ASEAN remains a precious case-study to take into consideration during the analysis. In general terms, both of them can be considered two advanced examples of regional organizations²⁷⁹.

Besides, it can be argued that they embody two different logics of integration: the European Union is an example of regional integration mainly based on institutions. Asean is a regional integration especially based on the concept of informal network²⁸⁰. Alongside elements of difference, we can detect a significant element of analogy: there is the common allocation of both organizations within the theoretical category of Neo-regionalism, as process of multidimensional and multilateral cooperation between neighboring States, based on endogenous and

²⁷⁸ On the «Asean spirit» and «Asean way» see Jotzo F et al., *Local causes, regional cooperation and global financing for environmental problems: the case of Southeast Asian Haze Pollution*, Int. Environmental Agreements, 8,1, 2008. See also Acharya A., *Ideas, identity, and Institution-building: From the ASEAN way to the Asia-Pacific way?*, The Pacific Review, 10, 3, 1997

²⁷⁹ Eliassen K., Arnesen C., *Comparison of European and Southeast Asian Integration*, in Telo' M., *European Union and New Regionalism*, Ashgate, 2007

²⁸⁰ See Eliassen K., Arnesen C., *Comparison of European and Southeast Asian Integration*, in Telo' M., *European Union and New Regionalism*, Ashgate, 2007

exogenous factors²⁸¹. Indeed, environmental and ecological disasters can be listed among the more recent challenges for Neo-regionalism²⁸². Thus, the case-studies of EU and ASEAN fundamentally prove that the regional organization can represent an interesting laboratory for environmental governance from which to start rethinking and looking for innovative and realistic responses to the global challenge of climate change.

3. Environmental Governance in the MERCOSUR: the *institutionalist* path towards a regional sustainability.

For the purpose of our research – before investigating the current state of play of *regional environmental governance* in the MERCOSUR – it is worth providing a synthetic overview of this Latin American organization with a dedicated focus on the institutionalization of the environmental dimension into MERCOSUR integration process. The main point discussed in this chapter is to understand how - and to what extent – the so-called regionalization of environmental policy has taken place in the bloc of MERCOSUR. The structure and decision-making modes of the Organization will be examined, together with the institutions in the field of the regional environmental policy.

First of all, it can be argued that Regionalism in Latin America has been a plural long-standing process, characterized by different outcomes and degrees of

²⁸¹ For a analytical distinction between the concepts of «Regioness», «Regionalization» e «Regionalism», see Telo' M., *The European Union, regionalism and world order*, in Santander S., *Relations internationales et regionalism. Entre dynamiques internes et projections mondiales*, Presses Universitaires de Liège, 2012

²⁸² See Telo' M., *European Union, Regionalism, New Multilateralism: three scenarios*, in *European Union and New Regionalism*, Ashgate, 2007

success²⁸³. Nowadays, such attempts have not yet led to the creation of a single regional organization covering all the countries of the continent²⁸⁴. Even the purpose of such regional attempts has shifted greatly from trade agreements to a more multidimensional idea of regional integration such as the MERCOSUR, which also includes today the dimension of environmental protection.

Born as an attempt to reverse a decade of economic decline and to fend off the negative externalities of bloc formations elsewhere²⁸⁵, the MERCOSUR is largely given as the most accomplished example of on-going process of regional integration in Latin America²⁸⁶. At times, it has been described as the regional organization that most closely resembles the European Union and as an example of thriving regional cooperation²⁸⁷.

In 1991 Argentina, Brazil, Uruguay and Paraguay signed the Treaty of Asunción, establishing the "*Mercado Comun del Sur*" (MERCOSUR) and agreeing to build a common market of the South. Venezuela officially joined the regional bloc in 2012. As evident from the name "*Common Market of the South*", the aims of the regional organization consists of the progressive elimination of all trade barriers among the signatory Parties; promoting the free circulation of goods, services and other productive factors between Member States; establishing a common

²⁸³ See Dabene O., *The Politics of Regional Integration in Latin America*, Palgrave, 2008

²⁸⁴ Malamud A., Gardini G., *Has regionalism peaked? The Latin American Quagmire and its Lessons*. *The International Spectator*, 47,1, 2012

²⁸⁵ Mattli W., *The Logic of Regional Integration – Europe and Beyond*, Cambridge University Press, 1999

²⁸⁶ See Malamud A., Schmitter P., *The experience of European Integration and the potential for integration in South America*, Institut Barcelona d'estudies internacionals Working Papers 2007/6. For a comparative analysis, see also Blum J., *The FTAA and the Fast Track to Forgetting the Environment: A comparison of the NAFTA and the MERCOSUR Environmental Models as Examples for the Hemisphere*, *Texas International Law Journal*, 2000.

²⁸⁷ See Telo' M., *Europe: A Civilian Power?*, Palgrave Macmillan, 2006

external tariff, building a common market; coordinating macroeconomic policies among Member States and, last but not least, harmonizing sector-based policies²⁸⁸. In doing this, MERCOSUR has also given a significant contribution to regional peace in relation to the concept of “border”, by moving from the idea of «conflict focus» to the idea of «focus of greater concentration of cooperation»²⁸⁹.

In 1994 the Protocol of Ouro Preto settled juridical personality and institutional structure to the Organization²⁹⁰, mainly composed of the Council of the Common Market (CCM), the Common Market Group (CMG), the Trade Commission, the Administrative Secretariat and, since 2006, the Parliament of Mercosur (PARLASUR). The Council of the Common Market (CCM) is the highest political institution consisting of the Ministers of Foreign Affairs or Ministers of Economy. It is in charge of the political leadership, by guiding the integration process and adopting Decisions in order to achieve the mission outlined in the treaty, especially the time-frames, the roadmaps, the strategies and the objectives of the Organization for the fulfilling of the Common Market. In complement to such leading role, the CCM can set new organs and take decisions in budget-related issues. Depending on the policy-issue under discussion, regular-based Ministerial Meetings have been established under the umbrella of CCM.

The Common Market Group (CMG) is the executive branch of the Council. It can provide Resolutions and make proposals to the Council. It mainly has

²⁸⁸ For one of the first pioneering theoretical conceptualizations about the distinct progressive phases of economic integration, see Balassa B., *The Theory of Economic Integration*, Homewood Ed., 1961

²⁸⁹ Longa Virasoro C., *Environmental Aspects of Regional Integration in MERCOSUR*, RECIEL, 5,1, 1996

²⁹⁰ See Preusse H., *The New American Regionalism*, Edward Elger Publishing, 2004

executive and administrative competences. Depending on the policy-issue under discussion, Sub Working Groups (SGT) have been established under the CMG. The Trade Commission (*Comisión de Comercio del Mercosur*) is trade-customs technical body in charge of supporting the CMG for the implementation of the customs union and the creation of a common trade policy. It can adopt directives as for the matters of its competence²⁹¹. Finally, the Administrative Secretariat is in charge of the general administrative affairs for the ordinary functioning of the Organization. Despite its limited competences, it is nevertheless the only permanent institution of the Organization. As far as the decision-making system is concerned, the consensus remains the general rule among the organs. This basically means that every Member State has a veto-power.

From an institutional perspective, it is also particularly important to mention the setting-up of the Parliament of the South (PARLASUR). It has been originally settled in 2006 in order to strengthen regional integration and to ensure democratic legitimacy to the Latin-American Organization. The Parliamentary Assembly is composed of 81 elected members who have consultative and opinion-starting functions²⁹². Despite its still limited political power, this parliamentary institution represents an important step made by South America towards the strengthening of the so-called «parliamentary dimension of regionalization».²⁹³ For the purpose of our discussion, it is worth stressing the

²⁹¹ See Novelli M., *La evolución del Derecho Ambiental en el Mercosur: aspectos institucionales y normativos*, Universidad Nacional de Rosario, UNR, 2009. Available in <http://www.programaamartyasen.com.ar/>

²⁹² For a preliminary introduction to the history and current composition of Parlasur see <http://www.parlamentodelmercosur.org>. For a critical analysis of this parliamentary institution see Dri C., *Limits of the Institutional Mimesis of the European Union: The Case of the Mercosur Parliament*, *Latin American Policy*, 1, 1, 2010

²⁹³ See Costa O. et al., *Parliamentary Dimensions of Regionalization and Globalization. The Role of Inter-parliamentary Institutions*, Palgrave MacMillan, 2013. See also Lupu

active role of a specific Parliamentary Committee: the “*Comisión Desarrollo, Regional Sustentable, Ordenamiento Territorial, Vivienda, Salud, Medio Ambiente y Turismo*” where cross-cutting environmental issues have been scheduled and publicly discussed at regional parliamentary level²⁹⁴.

As far as the environmental policy and its legal basis are concerned, the Treaty of Asunción had the creation of a Common Market as primary goal for the regional organization. This included the progressive free movement of goods, services and productive inputs, as well as the gradual elimination of internal customs and the setting up of common external tariff and – in a long term perspective – the adoption of common trade policy²⁹⁵. Besides, the Treaty of Asunción also mentioned – among other multidimensional aspects involved – environmental protection in its Preamble as one of the issues subject of regional cooperation among the signatory Parties²⁹⁶. In particular, the Preamble of the Treaty declared that the guiding principle of the MERCOSUR should also take into account the «preservation of the environment [...] on the grounds of gradualism, flexibility and balance»²⁹⁷. This circumstance appears to be logical as MERCOSUR dates

N., *La cooperazione interparlamentare come aspetto della governante globale*, in Telo' M., *Regionalismo, Globalizzazione e governance globale*, Atlante Geopolitico Treccani 2013, Istituto dell' Enciclopedia TRECCANI

²⁹⁴ See <http://www.parlamentodelmercosur.org/innovaportal/v/8419/1/parlasur>

²⁹⁵ Salinas R., *Environmental Challenges Facing the MERCOSUR*, *Journal of Environment and Development*, 11, 3, 2002

²⁹⁶ According to the Preamble of the Treaty of Asuncion, the formation of a Common Market «constitutes a vital prerequisite for accelerating their processes of economic development with social justice; understanding that this objective must be achieved by making the most efficient use of available resources, preserving the environment, improving physical links, coordinating macroeconomic policies, and ensuring the complement between the different sectors of the economy, based on the principles of gradualism, flexibility, and balance».

Available in: <http://www.mercosur.int/innovaportal/>

²⁹⁷ For a detailed analysis of the text of the Treaty see Villegas P., *The Environmental Challenges of the Common Market in South America: REMA under MERCOSUR*, *Golden Gate University Law Review*, 29,3, 1999

back to the 1990's when environmental protection had already emerged as a global issue at stake in the international agenda. Moving from the time of MERCOSUR's foundation, the attention for the environment – and its incorporation within the institutional process of MERCOSUR – has come to cover an increasing importance in the integration process²⁹⁸. Since there, the environmental policy of MERCOSUR began to deal with the inclusion of environmental costs in economic analysis, the sustainable use and management of resources, the development of clean technologies, the monitoring of common shared ecosystems, the coordination of international acts and the environmental management of tourism²⁹⁹. In this direction, the MERCOSUR established a specific body in charge of environmental policy-making just one year after its birth, through Resolution 22/92. Indeed, the Member States settled the so-called REMA (*Reunión Especializada de Medio Ambiente*) as a political means for addressing environmental policy³⁰⁰. In this sense, the REMA can be considered the first significant step towards the institutionalization of the environment in the MERCOSUR integration process, here understanding the concept of institutionalization in the Haas's proper scientific way, that is, the process by which bureaucratic organizations, rules and practices are created and adopted to constrain activities and to shape expectations³⁰¹.

²⁹⁸ Gilli R.S., *Medio Ambiente en el Mercosur*, Series Grandes Eventos – Meio Ambiente, 2000

²⁹⁹ See Longa Virasoro C., *Environmental Aspects of Regional Integration in MERCOSUR*, RECIEL, 5,1, 1996

³⁰⁰ Villegas P., *The Environmental Challenges of the Common Market in South America: REMA under MERCOSUR*, Golden Gate University Law Review, 29,3, 1999

³⁰¹ See Haas P, Keohane R., Levy M., *Institutions for the Earth: Sources of effective international environmental protection*, MIT Press, 1993

In particular, the REMA was created in order to analyze and to compare the existing policies and national legislations of Member States (including the compilation of a digest of the different national environmental legislations) and, then, to design common actions to protect the environment of the regional area³⁰². It originally consisted of a sub-forum of representatives of the Member States in charge of discussing the main environmental challenges of the region and formulating recommendations for adequate protection of the environment to CMG for its approval³⁰³. More precisely, the REMA meetings were intended to single out a deal on a few general criteria for the management of the environment within MERCOSUR; to promote the incorporation of environmental issues in international joint-projects within the framework of MERCOSUR; to concert and – possibly – to coordinate common actions among Member States at international level; to orient the efforts made by the Common Market Group in the cases of cross-cutting issues related to environmental issues; and, finally, to promote educational, training, research and informational activities for environment's management³⁰⁴. The most important achievement of REMA has been the formulation of 11 guidelines for the environmental policy in Mercosur. Such principles have been then formally adopted by the CMG under Resolution 10/94 “*Directrices Básicas en Materia Ambiental*” (Basic Guidelines on Environmental Policy) in 1994. Such Resolution aimed at developing a joint management scheme over the activities of the Member States in the field of environmental

³⁰² Bustamante A., *Comparacion de politicas ambientales en la Union Europea, Comunidad Andina y MERCOSUR*. Rivista Politeia, N. 47, vol 34. Istituto de Estudios Pliticos, UCS, 2011

³⁰³ See Devia L., *La Politica Ambiental en el Marco del Tratado de Asunción*, in Devia L., *Mercosur y Medio Ambiente*, Ediciones Ciudad Argentina, 1998

³⁰⁴ Villegas P., *The Environmental Challenges of the Common Market in South America: REMA under MERCOSUR*, Golden Gate University Law Review, 29,3, 1999

protection. In particular, such list of Basic Environmental Guidelines included: the adoption of basic environmental-friendly practices in all processes where natural resources were used; the introduction of a pioneering mechanism for environmental impact assessment; the minimization of pollutant's emissions; the sound treatment of solid, liquid and gas waste; the adoption of technical procedures on maximum atmospheric emission limits for vehicles, then transposed and enforced in the more detailed Resolution 84/94 adopted by the CMG³⁰⁵.

In 1995, the REMA has been definitely transformed and institutionalized into a proper permanent Sub Working Group (SGT), called SGT6 Environment (*Subgrupo de Trabajo VI - Medio Ambiente*) under the Common Market Group, through Resolution 20/95. As integrated part within the institutional structure of MERCOSUR, the SGT6 has been composed of members of the national environmental bureaucracies meeting on average four times annually. They have met to discuss a vast array of environmental issues (from trade in environmental goods to desertification and air quality) linked to MERCOSUR, so as to give support for the high level Ministerial decision-making process. The SGT6 has developed recommendations in various environmental sub-sectors to be issued to the competent CMG. Nowadays its main role consists of working on specific issues and to propose resolutions to the CMG³⁰⁶.

In this sense, the set-up of SGT6 can be mainly seen as a further MERCOSUR's attempt to harmonize national legislations, so as to prevent barriers to the free trade due to regulatory asymmetries and inconsistent environmental regulations

³⁰⁵ See http://www.sice.oas.org/Environment/environmentRTA_e.asp

³⁰⁶ Ollaik L., *Mercosul Environment Group: Facts and Possibilities*, Brazilian Studies Association Papers, Atlanta, 2002

among Member States³⁰⁷. This is because environmental policy is one of the sectors where fundamental differences in policy-making easily pose barriers to the establishment of a common market. As a consequence, the harmonization efforts appear to be a fitting way to fix the problem of environmental policy-asymmetries for regional economic integration³⁰⁸. Besides, it has to be noted that the complex process of so-called harmonization in MERCOSUR should not be intended in a strict, *hard law* juridical way – contrary to what occurs in the EU institutional laboratory. In other words, harmonization efforts in MERCOSUR does not consist of creating a single common supranational legislation but rather fixing broad common criteria that national legislations have to conform with. This consequently means that, once all the Member States have reached a given target, the issue is declared harmonized³⁰⁹. As pointed out by Hochstetler, the fact ultimately remains that there is no competence for the SGT6 to establish environmental legislations on its own³¹⁰. At the most, Member States limit themselves to adopt their own legislation according to agreed upon targets³¹¹. However, even through the effective powers of the SGT6 have been objectively limited, this Group has been able to play a fruitful role, by exchanging ideas, setting-up networks, sharing best practices, working on joint-projects, promoting innovations, and thereby upholding each other's position in the domestic context,

³⁰⁷ Blum J., *The FTAA and the Fast Track to Forgetting the Environment: A comparison of the NAFTA and the MERCOSUR Environmental Models as Examples for the Hemisphere*, Texas International Law Journal, 2000.

³⁰⁸ Villegas P., *The Environmental Challenges of the Common Market in South America: REMA under MERCOSUR*, Golden Gate University Law Review, 29,3, 1999

³⁰⁹ König C., *The Environment in the Andean Community and Mercosur*, Comparative Regional Integration Studies, UNU-CRIS Working Papers, W-2013/3

³¹⁰ Hochstetler K., *Fading Green? Environmental Politics in the Mercosur Free Trade Agreement*, Latin American Politics and Society, 45, 4, 2003

³¹¹ Malamud A., *Latin American Regionalism and EU Studies*, European Integration, 32, 6, 2010

not to mention collective initiatives to prepare for international environmental meetings³¹².

In order to strengthen the institutional dimension of environmental integration within MERCOSUR, the CMC adopted, by Decision 2/01, the MERCOSUR Framework Agreement on Environment (called AMMAM, *Acuerdo Marco sobre Medio Ambiente del Mercosur*) in 2001. Basically considered as a *soft law* agreement³¹³, the AMMAM reiterated the commitment of Member States occurred during Rio Conference in 1992, with the aim of expanding and further specifying the environmental aims of MERCOSUR³¹⁴.

Often considered the normative milestone of MERCOSUR's environmental policy³¹⁵, this agreement provides for cooperation in 10 points, which include sustainable use of natural resources, quality of life and environmental planning, tools for implementing environmental policies and sustainable activities. All the agreed points should have been achieved in compliance with the principles of coordination, integration, prevention, participation and costs internalization³¹⁶. As for their implementation, the mechanism underscored in the Framework Agreement to make operative the points is – basically – the cooperation among Member States. According to art. 5 of the Agreement, the States must cooperate in the implementation of international environmental agreements, by including

³¹² Hochstetler K., *Fading Green? Environmental Politics in the Mercosur Free Trade Agreement*, Latin American Politics and Society, 45, 4, 2003

³¹³ See Esain J., *Mercosur y Medio Ambiente*, La Ley, 11, 3, 2004

³¹⁴ Bustamante A., *Comparacion de politicas ambientales en la Union Europea, Comunidad Andina y MERCOSUR*. Revista Politeia, N. 47, vol 34. Instituto de Estudios Politicos, UCS, 2011

³¹⁵ Novelli M., *La evolución del Derecho Ambiental en el Mercosur: aspectos institucionales y normativos*, Universidad Nacional de Rosario, UNR, 2009. Available in <http://www.programaamartyasen.com.ar/>

³¹⁶ See Laciari M., *Medio Ambiente y Desarrollo Sustentable. Los desafíos del MERCOSUR*, Ciudad Argentina, 2003

the adoption of common policies for environmental protection, information exchange, natural resource management and – last but not least – the coordination of national positions in international forums³¹⁷.

As for the last point, the Member States co-ordinately – but separately – ratified a comprehensive array of multilateral UN-sponsored environmental international agreements on international trade in endangered species, ozone depletion, biodiversity, climate change, wetlands preservation, as well as the follow-ups of the Rio Conference in 1992³¹⁸.

A further landmark in the institutionalization of the environmental dimension in MERCOSUR integration process has been undertaken in 2004. With the purpose of implementing the above-mentioned Framework Legal Agreement, regular-based Summits of Specialized Meeting of Ministers of the Environment (called RMMAN, *Reunión de Ministros de Medio Ambiente de Mercosur*) have been established since 2004, while distinct *ad hoc* Working Groups have been settled under SGT6³¹⁹. Up to now, they carry on meeting and deliberating on regular basis. As for the RMMAN in particular, it can be observed that its setting-up significantly changed the institutional situation and implied not only the existence of a political forum for articulating and coordinating environmental initiatives at the highest level of MERCOSUR, but also a higher instance for pushing the promotion of environmental actions at the highest competent level of the regional organization.

³¹⁷ See Valente M., *Environment-Mercosur: pragmatism governs new accord*, Environmental Bulletin, 4, 2001

³¹⁸ See Laciari M., *Medio Ambiente y Desarrollo Sustentable. Los desafíos del MERCOSUR*, Ciudad Argentina, 2003

³¹⁹ Novelli M., *La evolución del Derecho Ambiental en el Mercosur: aspectos institucionales y normativos*, Universidad Nacional de Rosario, UNR, 2009. Available in <http://www.programaamartyasen.com.ar/>

Besides, the significant steps so far undertaken by MERCOSUR in the institutionalization of its regional environmental governance should not directly lead to the uncritical and simple conclusion that MERCOSUR is a successful example of regional integration through environmental policy. Indeed, various limits of the entire MERCOSUR's system still exist and tend to slow down the effectiveness of regional environmental policy.

First, serious tensions in the area covered by MERCOSUR still take place due to the reckless exploitation of natural resources. The huge amount of natural resources is a clear element of difference if compared to the EU integration experience. According to Saguier, this can potentially affect the process of regional integration in Latin America, by causing socio-environmental conflicts among Member States³²⁰.

Secondly, some Member States in MERCOSUR are more advanced in environmental protection than others: this is the case in Brazil and – in part – Argentina, which also count for the highest number of environmental studies and researches in the field of environmental policy. This gap makes particularly difficult to fully implement a harmonized environmental policy in different countries, with different economic interests at stake and different levels of industrial development³²¹. In particular, significant inter-countries economic asymmetries still persist as regards structural disparities, quantifiable by different indicators: the size of the country, the density of population, the kinds of territory, the distribution of natural resources, the economic growth rate, the degrees of

³²⁰ Saguier M., *Socio-Environmental Regionalism in South America: tensions in new development models* in Ruggirozzi, P. et al., *The Rise of Post-Hegemonic Regionalism*. United Nations University Series on Regionalism, 4, 2012

³²¹ See Borregaard N., *Evaluaciones ambientales o de sustentabilidad de políti caso acuerdos comerciales*, BID, 2004

development, the quality of democracy, the income distribution, not to mention the geopolitical position.³²²

Third, the current limits have been also drawn by the attitude of national governments who do not find enough incentives to support a robust supranational action in the field of environmental protection³²³. This is largely because – as argued by Drnas de Clement – MERCOSUR is still an *intergovernmental* organization where Member States have not delegated any significant sovereign competences to supranational authorities³²⁴. This matter of fact stirs up one of the most complex challenges the MERCOSUR is going to face today: the research for «Harmonization without Supranationality»³²⁵. Opinions differ if such lack of supranationality in MERCOSUR is due to Brazil's powerful unbalanced presence smothering the smaller member States' inclination towards a more supranational governance³²⁶ or whether no Member State would be profoundly convinced of the win-win outcomes possibly deriving from supranationalism³²⁷. As a consequence, without a supranational body, Member States wouldn't have enough incentives to strengthen environmental protection when there is a

³²² Bouzas R., *Regional Governance Institutions, Asymmetries, and Deeper Integration in MERCOSUR*, in Blyde, Fernandez-Arias, Giordano, Deepening Integration in MERCOSUR. Dealing with Disparities, Inter-American Development Bank, 2008

³²³ König C., *The Environment in the Andean Community and Mercosur*, Comparative Regional Integration Studies, UNU-CRIS Working Papers, W-2013/3

³²⁴ Drnas de Clement Z., *La clausola ambiental en el Mercosur*, AADI, 2009. See also Cienfuegos M. et al., *Mercosur y Union Europea*, Lerner Ed., 2007

³²⁵ For the so-called issue of “Armonización sin Supranacionalidad” in Mercosur, see Consani N., Servi A., *Mercosur y Medio Ambiente*, Revista de Relaciones Internacionales, IRI, 8, 17, 1999

³²⁶ Klom A., *Mercosur and Brazil: a European perspective*, International Affairs, 79, 2, 2003

³²⁷ Malamud A., *Mercosur turns 15: Between Rising Rhetoric and Declining Achievement*, Cambridge Review of International Affairs, 18, 3, 2005

comparative advantage not to do so³²⁸. At present, such lack of supranational authorities in MERCOSUR does not help to vigorously re-launch the process of regional environmental integration objectives overall³²⁹.

Fourth, a further element of slowing down the process of regional environmental integration can be traced back to the fact that the dispute settlement resolution mechanism of MERCOSUR seems still to be largely undeveloped for environmental disputes³³⁰. In other words, there is no such thing as a supranational EU Court of Justice, able to add an expanding impulse to the normative development of environmental policies and legislation in Member States. Five, taking into account what said about the importance of role and function of a regional Environmental Agency (see PART II), a current weak point of MERCOSUR is the lack of any comprehensive provision for information collection and full environmental impact assessment's evaluation. More precisely, it is worth noticing that information on regional environmental policies is mainly provided by the Secretariat for Environment and Sustainable Development of Argentina, without an autonomous source of information and scientific legitimacy³³¹ for MERCOSUR itself. This means that neither SGT 6 nor any other MERCOSUR bodies collects and disseminates data and environmental information about the MERCOSUR region.

³²⁸ Blum J., *The FTAA and the Fast Track to Forgetting the Environment: A comparison of the NAFTA and the MERCOSUR Environmental Models as Examples for the Hemisphere*, Texas International Law Journal, 2000

³²⁹ See Bustamante A., *Comparacion de politicas ambientales en la Union Europea, Comunidad Andina y MERCOSUR*. Revista Politeia, N. 47, vol 34. Instituto de Estudios Politicos, UCS, 2011

³³⁰ Newell P., *Trade and Environmental Justice in Latin America*, New Political Economy, 12, 2, 2005

³³¹ König C., *The Environment in the Andean Community and Mercosur*, Comparative Regional Integration Studies, UNU-CRIS Working Papers, W-2013/3

Six, the issue of degree of effectiveness of MERCOSUR environmental policy implementation into Member States' orders still remains problematic because it ultimately depends on each Member State's legal capability and will to provide effective protection to the environment³³². What's more, this point appears to be even more sharpened by the substantial lack of supranational authorities in MERCOSUR³³³.

To conclude our survey on the current state of play of *regional environmental governance* in the MERCOSUR, it is also important to critically highlight the potentials and the limits of the external projection of the Organization in international multilateral forums since the Declaration of Canela in 1992, signed just before the beginning of the Rio Conference in 1992. Such solemn Joint Declaration was to issue the first real position-document of most of Latin American States which stressed the need for international cooperation in environmental issues such as protection of atmospheric protection, biodiversity, forests and marine environment, degradation of the land, toxic waste, climate change by taking into account the common but differentiated responsibilities' principle and intergenerational justice³³⁴. Three years later, MERCOSUR's Member States issued the Declaration of Taranco in 1995 which expressed the

³³² See Kegel P. et al., *Institutions, Law and Sovereignty: a Legal Effectiveness in the Processes of Regional Integration of the European Union and the Mercosur*, Revista Brasileira de Política Internacional, 52, 1, 2009

³³³ See García Pelufo J., *La inserción del Mercosur al mundo globalizado* in Crawley A., *Mercosur en busca de una Nueva Agenda*, INTAL-ITD, Banco Interamericano de Desarrollo, 6, 2003

³³⁴ Gilli R.S., *Medio Ambiente en el Mercosur*, Series Grandes Eventos – Meio Ambiente, 2000

need to harmonize and to enforce environmental legislation, by going beyond the strict economic considerations provided by GATT-WTO agreement³³⁵.

A similar common-based approach occurred in 2002, when the MERCOSUR Member States released a Joint Statement to the Latin American regional preparations for the UN's World Summit on Sustainable Development in Johannesburg³³⁶ and – more recently – in 2012 when the MERCOSUR's leaders discussed the sustainable development Strategy Post-Rio+20. On this occasion, the Presidents of MERCOSUR Countries have issued a joint declaration addressing sustainable development, climate change, global mercury negotiations and mining. In particular, the leaders of Argentina, Brazil, Uruguay and Venezuela acknowledged the outcomes of the UN Conference on Sustainable Development (Rio+20) and welcomed the renewal of commitment to the Rio Declaration, the Agenda 21 and the Johannesburg Plan of Implementation. They have also stressed the importance of the economic, social and environmental pillars of sustainability, by also claiming the right of States and peoples to choose their own path to sustainable development. In addition to this, the leaders have also called for ambitious cuts in greenhouse gas emissions by industrialized countries, according to the principle of Common but Differentiated Responsibility and the respect for “Mother Earth”³³⁷, as well as the provision of more financial resources for climate mitigation and adaptation and the transfer of clean technologies³³⁸. Besides, despite all these interesting self-proclaimed

³³⁵ See Tussie D. et al., *Regional Integration and Building Blocks: the Cases of Mercosur*, in Tussie D., *The Environment and International Trade Negotiations*. MacMillan Ed., 2000

³³⁶ See <http://www.mercosur.int/innovaportal/v/349/4/innova.front>

³³⁷ See <http://www.mercosur.int/innovaportal/file/4379/1>

³³⁸ See <http://sd.iisd.org/news/mercotur-leaders>

initiatives towards a common external projection of MERCOSUR in international forum, it has to be noticed that MERCOSUR – contrary to ASEAN – does not have any status at UNFCCC Conferences of Parties, where it is neither a Party (such as the EU), nor a Observer Organization (such as the ASEAN)³³⁹.

Such “big silence” of MERCOSUR in the UNFCCC Conferences of Parties can be explained by two fundamental reasons: the first one is related to a certain tendency to personal *protagonism* of Latin American leaders in international forums. The second reason deals with the way by which Latin American Constitutionalism has usually treated and intended the issue of environment as common good.

As for the first reason, it can be argued that the concentrated presence of strong political personalities in Latin America could make the research for a “single regional voice” in big international stages (such as the UNFCCC CoPs) particularly difficult. At the same time, the strong influence of Presidents of the Member States may also tend to affect the course of the integration in a place where the arrangements on environmental issues often have a remarkable «inter-presidential component»³⁴⁰. This is largely because the top decision-makers of MERCOSUR are the national Presidents³⁴¹. As a consequence, the co-existence of strong political presidents doesn't necessarily help to find common agreed positions³⁴².

³³⁹ See http://unfccc.int/parties_and_observers/items/2704.php

³⁴⁰ Malamud A., *Latin American Regionalism and EU Studies*, European Integration, 32, 6, 2010

³⁴¹ Hochstetler K., *Fading Green? Environmental Politics in the Mercosur Free Trade Agreement*, Latin American Politics and Society, 45, 4, 2003

³⁴² For a critical view on the relationship between Presidentialism and Mercosur, see Malamud A., *Presidentialism in the Southern Cone. A framework for analysis*, SPS WP,

As for the second reason, it has been observed that the Constitutions of Latin American countries expressly proclaimed the principle of sustainable development and the right to a clean environment. In general, they declare the duty to protect the environment, providing that it is responsibility of the State and the citizens to respect this duty³⁴³. Nevertheless, such principle has been deemed more in terms of *their* own natural heritage rather than in *global* terms³⁴⁴. It follows that such particularistic Latin American approach to the issue of environment may not match so well with the so-called «Era of Environmental Globalism»³⁴⁵, whose the UNFCCC Conference of Parties is deeply part of.

Despite all these existing critical limits, it remains the fact that the countries that began the MERCOSUR integration process with a very sluggish level of environmental protection capacity (such as Paraguay, Uruguay and – partially – Argentina) have been able to expand this capacity quite considerably during the last decades. Put in other words, national environmental legislations improved in all the Member States under the MERCOSUR framework³⁴⁶. Surely MERCOSUR process of integration has not been the only driver for environmental improvement. Also a variety of other factors and channels – such as the end of authoritarian governments and the availability of international

European University Institute 1, 2001. See also Malamud A., *Presidential Diplomacy and the Institutional Underpinnings of Mercosur: An Empirical Examination*, Latin American Research Review, 40, 1, 2005

³⁴³ See Longa Virasoro C., *Environmental Aspects of Regional Integration in MERCOSUR*, RECIEL, 5,1, 1996

³⁴⁴ For a constitutional analysis on Latin American Constitutionalism and Environment, see Cordini G., *Profili di Diritto ambientale comparato*, in Cordini G., Fois P., Marchisio S., *Diritto ambientale*, Giappichelli, 2008

³⁴⁵ See Chasek P.S., *Earth Negotiations: Analyzing Thirty Years of Environmental Diplomacy*, UNU Press, 2001

³⁴⁶ See Hochstetler K., *Fading Green? Environmental Politics in the Mercosur Free Trade Agreement*, Latin American Politics and Society, 45, 4, 2003

funding, development banks and foreign donors³⁴⁷ – intervened and influenced all together the timing of environmental improvements for the States of the region. In doing this, the Member States have been able to increase step-by-step their level of domestic environmental standards during the years of economic integration through MERCOSUR, also by consolidating their legislations and even stretching out it towards more ambitious environmental targets.

From a comparative perspective, it can be argued that there are several interesting elements of analogy between MERCOSUR today and the EU in the '70-80. In both cases the regional cooperation in environmental policy has originally been proceeded as a *side-product* of other more explicit objectives, such as the creation of a common market. This is why, while trade has been the original driver of integration for the EU and for the MERCOSUR, the regional integration has – in both cases - progressively committed to a multidimensional cooperation on other issues, including environmental policy. Furthermore, in terms of public policy's analysis, environmental cooperation in MERCOSUR still appears quite fragmented and characterized by *ad hoc* dispersed responses rather than following a comprehensive, systemic, strategic environmental approach. This policy-style doesn't seem to be so different from the EU's one at its beginning, when the Community's first environmental policies in the 70' were mostly focused on the immediate demands of removal of asymmetries and barriers to free trade, including differences in environmental regulations³⁴⁸. At that time, the EEC environmental policy-style was characterized by a high degree of fragmented incrementalism. Against this background, there are several

³⁴⁷ For the international projects supported by UNDP and GEF grant financing in Latin American countries, see http://web.undp.org/gef/work_latinamerica.shtml

³⁴⁸ McCormick J., *Environmental Policy in the European Union*, Palgrave Ed., 2001

grounds for thinking that the European Union could provide an interesting road map for the further institutionalization of the environmental dimension into MERCOSUR integration process in the near future. In broader terms, such developments cannot be disjoint by the general evolution of the entire integration process of the region. That is to say that the progressive – sometimes difficult and if not critical – steps which MERCOSUR has gone through during its institutional development have largely been reflected in the evolution of its environmental policy. Besides, considering its above-mentioned existing limits, if MERCOSUR environmental policy will follow a similar course as the EU still remains hard to predict.

PART IV:

THE EUROPEAN UNION AS *GREENING*

PLAYER OF FOREIGN POLICY.

1. The EU environmental «leadership by diplomacy».

In terms of «*leadership by diplomacy*»³⁴⁹, the EU has been striving to emerge as *green leader* in International Relations with the ambition to act as global protagonist in the struggle to govern climate change³⁵⁰. In doing this, the EU has progressively tuned its environmental foreign policy, which can be analytically conceived as the outcome of an interplay between domestic forces (institutions and actors involved in environmental decision-making) and international forces, such as environmental changes interacting with other phenomena (for instance democratization and globalization)³⁵¹.

In order to avoid a situation in which the EU is a leader without followers, the Union has been engaged in deploying a vast array of different policy-tools at its disposal to take on global climate change leadership. They include the practice and institutionalisation of *diffuse reciprocity*³⁵² and *issue linkages*³⁵³ approaches,

³⁴⁹ For the original theoretical conceptualization of «leadership by example» and «leadership by diplomacy», see Oberthür S., *The role of the EU in global environmental and climate governance*, in Telo' M., *The European Union and Global Governance*, Ashgate, 2009. See also Oberthür S., *The new climate policy in the European Union: internal legislation and climate diplomacy*, VUB Press, 2009

³⁵⁰ A slightly different position comes from those analysts who have applied game theoretical models, reaching the conclusion that the EU cannot lead alone. See Carraro C., *The Economics of Coalition Formation*, in Grubb M., Gupta J., *Climate Change and European Leadership: A Sustainable Role for Europe?* Kluwer Academic Publishers, 2000

³⁵¹ Harris P., *Europe and Global Climate Change. Politics, Foreign Policy and Regional Cooperation*, E. Elgar, 2007. See also Harris P., *Climate Change and Foreign Policy: case studies from East to West*, Routledge, 2009

³⁵² For a comprehensive definition of *diffuse reciprocity* as «an ongoing series of sequential actions which may continue indefinitely, never balancing, but continuing to entail mutual concessions, within the context of shared commitments and values», see Telo' M., *State, Globalization and Multilateralism*, Springer, 2012. According to the institutional norm of diffuse-reciprocity, players base their negotiation behavior on the understanding that they have to continue cooperating with each other in the future, while waiting for middle and long-term advantages that can appear in different policy-

by developing a *package approach* that makes integrative bargaining possible³⁵⁴; the strengthening of EEAS's diplomatic coordination efforts³⁵⁵ to drive international negotiations on climate change for the post-Kyoto regime; the adoption of an unilateral policy having extraterritorial effects (such as the introduction of measures that link access to the rich and attractive EU internal market to certain environmental standards, matching *enforcement* methods and climate change mitigation requirements); cooperation initiatives that are directly targeted to transfer European green technologies and *know-how* towards third countries, so as to stimulate reforms there through financial and *capacity-building* efforts (i.e. the Clean Development Mechanism provided by the Kyoto Protocol).

In the light of the theoretical conceptualization about different types of leadership illustrated in PART I, it can be argued that while the «EU leadership by example» relies on the directional and symbolic types of leadership (see PART II), the «EU

fields of cooperation. For the institutional norm of diffuse reciprocity as applied to Multilateral Environmental Agreements, see Delreux T., *The EU as International Environmental Negotiator*, Ashgate, 2011. See Caporaso J., *International Relations Theory and Multilateralism: the Search for Foundations*, International Organization, 46,3, 1992. See also, Keohane R., *Reciprocity in International Relations*, International Organization, 40, 1986.

³⁵³ *Issue linkages* have been defined as «the simultaneous discussion of two or multiple issues for joint settlement» under the assumption that if the two parts cannot reach agreement when negotiating on one single issue, adding a second issue will increase the probability of agreement. In this sense, see Axelrod R., Keohane R., *Achieving cooperation under anarchy: strategies and institutions*, World Politics, 1985. See also Sebenius J., *Negotiation Arithmetic: adding and subtracting issues and parties*, International Organization, Spring, 1983. More recently, see also Young O., *Horizontal Interplay: The Politics of Institutional Linkage*, in Young O., *The Institutional Dimensions of Global Change: Fit, Interplay and Scale*, MIT Press, 2002

³⁵⁴ See Gupta J., Ringius L., *The EU's Climate Leadership: Reconciling Ambition and Reality*, International Environmental Agreements: Politics, Law and Economics, Kluwer Academic Publishers, 1, 2001

³⁵⁵ See: http://ec.europa.eu/environment/international_issues/green_diplomacy_en.htm

leadership by diplomacy» mainly encompasses elements of structural and instrumental leadership.

1.1 The EU structural leadership and the Environmental Conditionality.

The EU shows a few typical elements of **structural** leader. As mentioned in PART I, the structural leader is a power-based player who uses the “carrots and sticks” technique to influence the others³⁵⁶. He leads the bargaining process by the constructive use of its political power stemming from material and economic resources. In this sense, the EU seems sometimes to behave as a structural leader when it comes to environmental negotiations.

With its membership (28 Member States), its combined population (more than 506 million people³⁵⁷) and combined GDP (13,920,541 million euro³⁵⁸) in 2014, the EU has the potential strength to combine political will with a common negotiating position for 28 upmost industrialized economies. In addition to this, it can rely on 28 Foreign Offices and Environmental Ministries of the 28 Member States to use their longstanding diplomatic relations with third countries³⁵⁹. This means that – despite its lack of autonomous military power – the EU has some potential elements for structural leadership.

³⁵⁶ See Skodvin T., Andresen S., *Leadership Revisited*, Global Environmental Politics, MIT Press, 6, 2, 2006

³⁵⁷ See <http://ec.europa.eu/eurostat/tgm/table>

³⁵⁸ See http://europa.eu/about-eu/facts-figures/economy/index_en.htm

³⁵⁹ Gupta J., Ringius L., *The EU's Climate Leadership: Reconciling Ambition and Reality*, International Environmental Agreements: Politics, Law and Economics, Kluwer Academic Publishers, 1, 2001

A first structural tool for «leadership by diplomacy» has been the so-called “*Environmental Conditionality*”³⁶⁰: a value-driven sophisticated technique of combination of diplomacy and coercion. The inclusion of "environmental clauses" in many trade treaties – understood as the provisions envisaged by the Union in order to condition the granting of preferential tariff treatments, commercial benefits or financial aid to the compliance by a beneficiary State for certain rules for the protection of the environment – takes a particularly relevant profile not only because the Union has started practicing it on the occasion of the Barcelona European Council of March 2002, but also – and above all – because such political choice (as normally happens for any other type of conditionality) seems to leave economic and commercial policy in a subordinate position with respect to the pursuing of another goal, functionally considered more important: the one of the environmental sustainability. In short, the choice to link the recognition of additional preferences to the compliance with international environmental conventions reflects the integral vision of sustainable development as elaborated by the European Union. In the light of such reversed approach, the development cannot solely focus on the pursuit of economic goals, but it must also be based on the protection of human rights and respect for the environment (social and environmental conditionality)³⁶¹.

³⁶⁰ See Zwagemakers F., *The EU's Conditionality Policy: A New Strategy to Achieve Compliance*, IAI, January 2012

³⁶¹ In this sense, it can be argued that the policy of “*Environmental Conditionality*” is a further extension of the spirit proclaimed at the historical Paris Summit in 1972, when the Heads of State and Government of the Member States of the EEC solemnly declared that: «*The economic expansion is not an end in itself. Its first aim should be to enable disparities in living conditions to be reduced.[...] It should result in an improvement in the quality of life as well as in standards of living. As befits the genius of Europe, particular attention will be given to intangible values and to protecting the environment, so that progress may really be put at the service of mankind*». Final

According to an environmental conditionality's approach, many EU sector-based policies can actively support the EU's environmental goals in the ongoing preparation of COP21 negotiation process. This is the case of EU sector-based policies such as the development cooperation policy, the scientific, research, innovation policy and, last but not least, the EU trade policy.

As regards development cooperation policy, the recent European Commission's Communication of 25th February 2015 entitled "*The Paris Protocol – A blueprint for tackling global climate change beyond 2020*" states that the Union and its Member States are already the leading providers of official development assistance and climate finance to developing countries. The EU delivered more than 9.5 billion euro for climate finance in 2013. To this end, for the period 2014-20 it has already been agreed that at least 20% of the EU development assistance will have to be climate-relevant which is in the order of €14 billion³⁶². Secondly, as far as the EU scientific, research, innovation policy is concerned, the Communication states that the Union is intended to take better advantage of the fact that its research and innovation framework program Horizon 2020 is fully open to third countries' participation and provides financial support to less developed countries. The EU will promote awareness of its commitment to invest under this program at least 28 billion euro for climate-related actions. This will allow broad international collaboration to bring climate technologies to the markets, to educate scientists and entrepreneurs, and contributes to climate diplomacy goals³⁶³.

Statement of the 1972 *Paris Summit Meeting* of Head of State and Government of the Member States of the EEC. Bulletin EC 10–1972.

³⁶² See http://ec.europa.eu/priorities/energy-union/docs/paris_en.pdf

³⁶³ See http://ec.europa.eu/priorities/energy-union/docs/paris_en.pdf

Thirdly, as for the EU trade policy, the Communication states that in its bilateral trade agreements the EU and its free trade partners commit to promote climate goals and effectively implement the UNFCCC, including through regular structured dialogues and cooperation on climate and trade issues³⁶⁴. An incentive mechanism for environmental conditionality in trade agreements is the *Generalized Scheme of Preferences PLUS Scheme (GSP+)*. The GSP + has been introduced in 2012 and, by reforming the first GSP 2006-2015, currently represents the ongoing core incentive instrument through which the EU has offered increased market access to developing countries that have ratified and effectively implement conventions on environmental protection and climate change. Such system has been progressively tuned after the limits of the previous GSP and the rigidity of the Lomé Conventions³⁶⁵. The existing rules under the functioning of the GSP+ are contained into the Regulation 978/2012 of 20th November 2012 applying a EU scheme of generalized tariff preferences (2012-2023)³⁶⁶. According to art. 9 of the Regulation, a GSP beneficiary country may benefit from the tariff preferences provided under the special incentive arrangement for sustainable development and good governance if the country has ratified all the relevant conventions listed in Annex VIII, Part B (*Conventions related to the environment and to governance principles*)³⁶⁷ and the most recent

³⁶⁴ See http://ec.europa.eu/priorities/energy-union/docs/paris_en.pdf

³⁶⁵ For a critical survey on the Lomé Conventions and – since 2000 – Cotonou Convention between the EU and ACP countries, see Sanna S., *Il sistema di preferenze generalizzate nella strategia per lo sviluppo sostenibile dell'Unione Europea*, in Fois P., *Il principio dello Sviluppo Sostenibile nel diritto internazionale ed europeo dell'Ambiente*, Editoriale Scientifica, 2007

³⁶⁶ See <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF>

³⁶⁷ The Conventions related to the environment and to good governance principles listed in Annex VIII, Part B include: the Convention on International Trade in Endangered Species of Wild Fauna and Flora (1973), the Montreal Protocol on Substances that Deplete the Ozone Layer (1987); the Basel Convention on the Control of

available conclusions of the monitoring bodies under those conventions do not identify a serious failure to effectively implement any of those conventions.

Furthermore, the most recent structural instrument for the EU environmental «leadership by diplomacy» has been the application of the so-called internal environmental measures with extraterritorial implications³⁶⁸. More specifically, it is a form of unilateral policy having extraterritorial economic effects, such as the introduction of measures that link access to the rich and attractive EU internal market³⁶⁹ to certain environmental standards, matching enforcement methods and climate change mitigation requirements. The potential of such instrument consists of unilateral measures that extend the reach of EU environmental law even beyond EU borders, by contributing to make the EU one of the biggest regulator in global competition policy³⁷⁰. At present, they include legislation on ship recycling, inclusion of aviation emissions in the EU Emissions Trading System³⁷¹, the EU legislation on sustainable bio-fuels³⁷² and regulation of imports of timber in the European Single Market. In this sense, they can be seen as additional tools in the hands of European environmental leadership. From a third states' perspective, it may be advantageous to join the EU high regulatory

Transboundary Movements of Hazardous Wastes and Their Disposal (1989); the Convention on Biological Diversity (1992); the United Nations Framework Convention on Climate Change (1992); the Cartagena Protocol on Biosafety (2000); the Stockholm Convention on persistent Organic Pollutants (2001); the Kyoto Protocol to the United Nations Framework Convention on Climate Change (1998).

³⁶⁸ See Birnie P., Boyle A., *International Law and the Environment*, Oxford University Press, 2009

³⁶⁹ According to Eurostat, the EU's trade with the rest of the world accounted for around 20% of global exports and imports in 2014. See <http://europa.eu/about-eu/facts-figures>

³⁷⁰ See Dewatripont M., Legros P., *The EU Competition Policy in a Global World*, in Telo' M., *The European Union and Global Governance*, Routledge, 2009

³⁷¹ For an introduction to the functioning of the *EU Emission Trading Mechanism*, see ec.europa.eu/clima/policies/ets. See also the voice «EU BUBBLE» in Park C., *Dictionary of Environment and Conservation*, Oxford University Press, 2007

³⁷² See http://ec.europa.eu/energy/renewables/biofuels/sustainability_criteria_en.htm

standards not only to get access to the rich European internal market and to improve trade relations with the EU, but also because the costs of compliance are easier to bear with the awareness that competitors will stick to the same rules and will face similar costs³⁷³.

1.2 The EU instrumental leadership and the Green Diplomacy

Network.

When it comes to matters like the elements of instrumental leadership owned by the EU, a special focus has to be dedicated to the role, the organization and the skills of European negotiators and policy-makers, because an instrumental leader is the player who masters and maximizes its negotiation and diplomatic skills to pursue *issue-linkages*, to exploit *diffuse-reciprocity* situations, to build issue-based coalitions in order to develop an integrative (win-win) rather than a merely distributive bargaining outcome³⁷⁴. In this direction, a concrete example of the steps taken by the European Union towards the creation of a truly environmental diplomatic expertise has been represented by the *Green Diplomacy Network initiative*, launched in 2003 at the end of the European Council meeting in Thessaloniki³⁷⁵. It has been an environmental foreign-policy initiative aimed at promoting the integration of environment into external relations through the creation of an informal network. This informal network, composed by officials dealing with environment and sustainable development issues in the Member States' Ministries of Foreign Affairs and the EU diplomatic missions, is assuming

³⁷³ Van Schaik L., *The Sustainability of the EU's Model for Climate Diplomacy*, in Oberthür S., et al., *The New Climate Policies of the European Union*, VUBPRESS 2010.

³⁷⁴ See Grubb M., Gupta J., *Leadership: Theory and Methodology* in Grubb M., Gupta J., *Climate Change and European Leadership: A Sustainable Role for Europe?* Kluwer Academic Publishers, 2000

³⁷⁵ See http://ec.europa.eu/environment/international_issues/green_diplomacy_en.htm

an increasingly important role in enhancing the coherence, consistency and effectiveness of European actions in environmental issues. Their main task consists of outreaching and reporting the substance of climate-related exchanges with third countries back to the relevant EU bodies³⁷⁶. Since January 2012 this Network has fallen under the direction of the European External Action Service in order to strengthen the integration of the environment as growing issue of *high politics* in International Relations. Within the EEAS, the Green Diplomacy Network is intended: 1) to promote the use of the EU's extensive diplomatic resources (diplomatic missions, delegations, development cooperation offices) in support of environmental objectives, by orchestrating outreach campaigns; 2) to exchange views, gather information and share experiences on how Member States (in particular Foreign Ministries) and the Commission are integrating environmental concerns into their diplomatic efforts; 3) to focus on the added value it can bring by supporting the development of local informal green diplomacy networks in third countries between EU Embassies and the Commission³⁷⁷. Working together, the EU Missions in third countries can gather intelligence on specific positions of international partners regarding emerging issues and feed this back to EU negotiators³⁷⁸.

Put in other words, the Green Diplomacy Network does in the environmental field what the EEAS traditionally does in the field of CFSP, that is, to contribute

³⁷⁶ Schunz S. et al., *The European Union Foreign Policy and Global Climate Change: towards a comprehensive European Climate Policy?* Institute for International and European Policy (IIEP), 12, 2009

³⁷⁷ See http://eeas.europa.eu/environment/gdn/index_en.htm

³⁷⁸ See http://eeas.europa.eu/environment/gdn/index_en.htm

to coordinate horizontal and vertical interests, to disseminate information and to produce new strategic ideas³⁷⁹.

This practice of coordination for external action can take inspiration from the experience the EU has already performed for its domestic policies. There, a prolonged dialogue throughout which Member States' representatives operate on the basis of achieving consensus has often led them to not only persuade each other but also to convince their capitals to redefine their interests and pursue outcomes that are beneficial to all Member States in a win-win game³⁸⁰. In doing this, the EU network of national civil servants has been gradually transcended to become from bureaucratic committees to influential epistemic communities³⁸¹. As well, it can happen that national experts participating in the EU working parties, *ad hoc* groups and committees in Brussels often feel more affiliated with their European counterparts than with their national colleagues from other departments³⁸². In doing this, they have progressively developed a process of so-called "EU socialization"³⁸³, that is a sense of "we-ness" emerging from institutionalized issue-based coordination practices between Member States' representatives³⁸⁴. Besides, this specific aspect related to the

³⁷⁹ See Lequesne C., *The European External Action Service: Can a New Institution Improve the Coherence of the EU Foreign Policy?* in Telo' M., Ponjaert F., *The EU's Foreign Policy. What Kind of Power and Diplomatic Action?*, The Globalisation, Europe, Multilateralism Series, Ashgate, 2013

³⁸⁰ Cross M., *The European Diplomatic Corps: Diplomats and International Cooperation from Westphalia to Maastricht*, Palgrave Macmillan, 2007

³⁸¹ Cross M., *The European Diplomatic Corps: Diplomats and International Cooperation from Westphalia to Maastricht*, Palgrave Macmillan, 2007

³⁸² Beyers J., Trondal J., *How Nation States Hit Europe: Ambiguity and Representation in the European Union*, *West European Politics*, 27, 5, 2004

³⁸³ For the concept of "EU socialization", see Van Schaik L., *The Sustainability of the EU's Model for Climate Diplomacy*, in Oberthür S., et al., *The New Climate Policies of the European Union*, VUBPRESS 2010.

³⁸⁴ Cross M., *Sustainable Diplomacy in the European Union* in Costantinou C., Der Derian J., *Sustainable Diplomacies*, Palgrave Macmillan, 2010

socialization/internalization of Europe in national identities can be more critically framed into the larger, still controversial ongoing debate on twofold trends occurring in the Union: on the one hand the “*Europeanization* of the national foreign policies” and, on the other hand, the “*Diplomatization* of the EU”. At present, we are witnessing that the Europeanization of national foreign policies is proceeding slower than expected, whereas diplomatization of EU intergovernmental institutions is far from disappearing³⁸⁵. This current trend has been particularly evident when dealing with urgent CFSP-related international challenges (Libya, Syria, Palestine, the UNSC)³⁸⁶, while it seems to be less evident in other (and more consensual) fields, such as the EU environmental policy. Here, the above-mentioned process of socialization emerging from institutionalized coordination practices between Member States’ representatives is pressing ahead with a dynamics that Jordan defines “departmental”³⁸⁷, through an unpredictable game not too dissimilar from the one described in the *Castle of Crossed Destinies* by the Italian writer Italo Calvino³⁸⁸. More precisely, while the state-centric theory assumes that individual departments are simply state-executives and have very little independence from their central States, the EU integration in environmental policy would tell a quite different story of “*crossed destinies*”: the Union has created a new political system in which each of the 28 environmental departments has a common incentive to ensure that its

³⁸⁵ Telo’ M., *The EU: A Civilian Power’s Diplomatic Action after the Lisbon Treaty. Bridging Internal Complexity and International Convergence*, in Telo’ M., Ponjaert F., *The EU’s Foreign Policy. What Kind of Power and Diplomatic Action?*, The Globalisation, Europe, Multilateralism Series, Ashgate, 2013

³⁸⁶ See Telo’ M., Ponjaert F., *The EU’s Foreign Policy. What Kind of Power and Diplomatic Action?*, The Globalisation, Europe, Multilateralism Series, Ashgate, 2013

³⁸⁷ Jordan A., *The Europeanization of British Environmental Policy, A Departmental Perspective*, Palgrave Macmillan, 2002

³⁸⁸ See Calvino I., *Il Castello dei Destini Incrociati*, Einaudi, 1973

departmental interest is communicated to Brussels. So, such cross-national alliances of middle-ranking actors representing similar departmental agencies emerge, by seeking to increase their influence and willing to shape sector-based policies even against the wishes of other agencies in their own national Administrations³⁸⁹.

All this proves that departments matter and can make a difference by framing and implementing key-pieces of secondary policy which fit their sector-based/departmental interests. Such independent actions of departments can produce perverse processes which have capacity to escape the grasp of their States' direct control³⁹⁰. The recurrent interactions taking place between national EU administrative elites in European committees or in the Council working groups can lead to a «cooperative trans-governmental behavior»³⁹¹ that challenges the conventional state-centric theory which would see both the national and the European level always separated and confronted.

As the above-mentioned process is still young, the creation of a fully “EU-socialized” *departmental* community, not to mention the *Green Diplomacy Network*, still remains at early stages of a learning and identity-building process. With reference to the most recent international updates, the European environmental diplomacy (as epistemic community in progress) in the UNFCCC 19CoPs of Warsaw 2013 has operated in accordance with the indications

³⁸⁹ Lewis J., *The Janus Face of Brussels Socialization and Everyday Decision-making in the European Union*, International Organization, 59, 2005. See also Peterson J., *Decision-making in the European Union: towards a framework for analysis*, Journal of European Public Policy, 2, 1995. See also Wallace W., *Collective Governance*, in Wallace W. et al., *Policy-making in the EU*, Oxford University Press, 2000

³⁹⁰ Jordan A., *The Europeanization of British Environmental Policy, A Departmental Perspective*, Palgrave Ed., 2002

³⁹¹ Costa O., *Who decides EU foreign policy on climate change? Actors, alliances and institutions* in Harris P., *Climate Change and Foreign Policy: case studies from East to West*, Routledge, 2009

contained in the Conclusions of the EU Environment Council in October 2013. In the Conclusions of the Environment Council Meeting in Luxembourg October 2013, the EU Council solemnly stressed a crucial point: « Responsibilities and capabilities are differentiated but evolve over time [...]. The agreement should reflect those evolving realities by including a spectrum of commitments in a dynamic way»³⁹². The new global climate agreement scheduled for December 2015 should therefore reflect the evolution and changes of circumstances, including a range of tasks in a more dynamic way. These Conclusions of the EU Council clearly show the European Union is intended to call for a more active and responsible engagements (i.e. taking legally binding commitments to the reduction of emissions) even from the so-called Developing Countries and especially from the *Most Advanced Developing Countries* (paragraph 14 of the Conclusions of the Council), such as China and India. Put it differently, a static interpretation of the principle of Common but Differentiated Responsibilities would be unfair, as many Developing Countries are progressing rapidly³⁹³.

More recently, the Environment Council Conclusions on preparations for the CoP20 in Lima 2014 go in the same direction when the text states that: «the intended nationally determined mitigation contributions (INDCs) are a way to operationalize the principle of Common but Differentiated Responsibilities and respective capabilities in a manner that takes into account evolving circumstances and economic realities»³⁹⁴ and that «the 2015 agreement should [...] provide a long-term vision of the needed transformation towards a low-emission and climate-resilient economy, with in-built flexibility and capacity to

³⁹² See http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata

³⁹³ Gupta J., *Climate Change and Developing Countries: From Leadership to Liability*, in Di Paola M., Pellegrino G., *Canned Heat*, Routledge, 2014

³⁹⁴ See http://www.consilium.europa.eu/uedocs/cms_data/docs

respond dynamically to evolving scientific and technological knowledge, circumstances, responsibilities and capabilities, and enable broad and effective participation»³⁹⁵.

As regards the preparation of the last rounds of UNFCCC negotiations, the EEAS and the Commission services have also issued a joint reflection paper in 2013 entitled “*EU climate diplomacy for 2015 and beyond*”³⁹⁶. This non-paper singles out the main challenges for the EU in playing a leading role, through its own climate policy but also by projecting it internationally. The non-paper also offers a strategic toolbox to deploy an effective EU climate diplomacy and to strengthen the EU’s single voice in UNFCCC fora, so as to negotiate with a higher degree of bargaining power, through a coordinated action by the EEAS, the Commission and Member States’ national diplomacies. By developing a strategy that combines structural, instrumental and directional elements of leadership, the non-paper considers and deepens three strands of climate diplomacy already elaborated in the Foreign Affairs Council Conclusions of 18th July 2011. They consist of: 1) lifting climate change as a strategic priority in diplomatic dialogues and initiatives at the highest level; 2) supporting to low-emission and climate resilient development; 3) stressing the nexus between climate, natural resources, prosperity and security³⁹⁷.

On such original basis, the European Commission has issued the before mentioned Communication of 25th February 2015 entitled “*The Paris Protocol – A blueprint for tackling global climate change beyond 2020*”³⁹⁸ in the view of COP21 in Paris. This document can be considered the fundamental reference

³⁹⁵ See http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata

³⁹⁶ See <http://ec.europa.eu/clima/policies/international/negotiations/docs/eeas>

³⁹⁷ See http://eeas.europa.eu/environment/index_en.htm

³⁹⁸ See http://ec.europa.eu/priorities/energy-union/docs/paris_en.pdf

point which is intended to prepare the Union for the Paris Conference in December 2015. The Communication sets out a vision for a transparent and dynamic legally binding agreement, containing fair and ambitious commitments from all Parties based on evolving global economic and geopolitical circumstances. In aggregate, these commitments - based on scientific evidence - should put the world on track to reduce global emissions by at least 60% below 2010 levels by 2050³⁹⁹.

In particular, the Communication proposes that the 2015 Agreement should be in the form of a Protocol under the UNFCCC. Major economies, in particular the EU, China and the US, should show political leadership by joining the Protocol as early as possible. It should enter into force as soon as countries with a collective total of 80% of current global emissions have ratified it. Under the new Protocol, climate finance, technology development and transfer, and capacity building should promote universal participation and facilitate the efficient and effective implementation of strategies to reduce emissions and adapt to the adverse effects of climate change⁴⁰⁰.

As for the objectives to deliver, the Communication singles out that the Paris Protocol should: 1) secure ambitious reductions of emissions by specifying that the long term goal should be to reduce global emissions by at least 60% below 2010 levels by 2050; 2) set out clear, specific, ambitious and fair legally binding mitigation commitments that put the world on track towards achieving the below 2°C objective; 3) ensure dynamism by providing for a global review, to be conducted every five years, to strengthen the ambition of these mitigation commitments consistent with the latest science; 4) strengthen transparency and

³⁹⁹ See http://ec.europa.eu/priorities/energy-union/docs/paris_en.pdf

⁴⁰⁰ See http://ec.europa.eu/priorities/energy-union/docs/paris_en.pdf

accountability in order to be able to assess whether emissions reduction targets and related commitments have been met; 5) establish a common set of rules and procedures for annual reporting and regular verification and international expert reviews of emission inventories; 6) encourage climate-resilient sustainable development by promoting international cooperation and supporting policies that decrease vulnerability and improve countries' capacity to adapt to the impacts of climate change; 7) promote efficient and effective implementation and cooperation by encouraging policies that mobilize substantial, transparent and predictable public and private sector investment in low-emission climate-resilient development⁴⁰¹. As for the level and sector-playing field of the Protocol, the Communication specifies that it should have a broad geographical coverage, a comprehensive coverage of sectors and emissions and a robust mitigation commitment.

In order to ensure dynamism to the Paris Protocol, the Communication proposes a process, applicable to all Parties, to regularly review and strengthen mitigation commitments, consistent with the Protocol's long term goal. If Parties' collective efforts fall short of what is necessary, the process should encourage Parties to raise the level of ambition of existing commitments and formulate sufficiently ambitious commitments in subsequent target periods. Starting in 2020, the review should be repeated every five years and facilitate transparency, clarity and understanding of mitigation commitments in light of their contribution to the below 2°C objective⁴⁰². The review should invite Parties to explain progress on

⁴⁰¹ See http://ec.europa.eu/priorities/energy-union/docs/paris_en.pdf

⁴⁰² See http://ec.europa.eu/priorities/energy-union/docs/paris_en.pdf

their mitigation commitments and why they think their actions have been fair and ambitious⁴⁰³.

In addition to this, the Communication insists on a policy integration's perspective and highlights how other EU policies such as, trade, scientific research, innovation and technological cooperation, economic and development cooperation, disaster risk reduction and environment could reinforce the EU's international climate policy.

In conclusion, the same Communication is also complemented by a *Climate Diplomacy Action Plan* jointly developed by the European External Action Service and the Commission. The Action Plan has been endorsed at the Council of Foreign Affairs in January 2015 and it is aimed at scaling up EU outreach and building alliances with ambitious international partners in the view of the Paris conference.

The Climate Diplomacy Action Plan makes the promotion of ambitious global climate action a central strategic priority in EU political dialogues, including at G7 and G20 meetings and the UN General Assembly. It also supports low-emission and climate and disaster resilient development through EU development cooperation. Finally, it is intended to link climate change with its potential long-term consequences, including security challenges⁴⁰⁴.

The success of the EU in the Paris Conference will depend on a number of factors which include: the extent to which other countries are willing to commit to meaningful emission reduction targets in the time of economic crisis, the EU's capability to cut greenhouse emissions at a low cost and its ability to provide

⁴⁰³ See http://ec.europa.eu/priorities/energy-union/docs/paris_en.pdf

⁴⁰⁴ See http://ec.europa.eu/priorities/energy-union/docs/paris_en.pdf

resources for adaptation and technology transfer to developing countries⁴⁰⁵. The EU performance will also be influenced by the way the Union organizes itself within the dynamic, multilateral, complex framework of the so-called “Climate diplomacy”.

2. Climate Diplomacy in action: States and NGOs towards the Paris Conference 2015.

Broadly speaking, Climate Diplomacy is a sub-branch of the environmental diplomacy, defined as a «system of complex interactions and procedures by which global environmental understandings are formulated, ratified and implemented»⁴⁰⁶. More recently, Climate Diplomacy has come to be thought of as “a system”, to be intended in a dynamic and multifaceted way, where four political processes are involved: issue-definition, fact-finding, bargaining and, finally, regime-strengthening⁴⁰⁷.

Besides, such diplomatic negotiations are governed by predictable sets of actors engaged in a relatively structured process, constrained by formal and informal rules and customs. As for the main players involved in the environmental treaty-making system, the list includes the Environment Ministers of the Parties, Diplomats, seconded national experts, the Secretariat, UN agency servants, UNEP and UNDP experts, unofficial or non-state interest groups (including environmental NGOs, Business Associations and members of the Scientific

⁴⁰⁵ See Van Schaik L., *The Sustainability of the EU's Model for Climate Diplomacy*, in Oberthür S., et al., *The New Climate Policies of the European Union*, VUBPRESS 2010. See also Van Schaik L., Van Hecke K., *Skating on Thin Ice: Europe's Internal Climate Policy and its Position in the World*, Working Paper Egmont Institute, 2008

⁴⁰⁶ Susskind L., *Environmental Diplomacy*, Oxford University Press, 1994

⁴⁰⁷ Brown J. et al., *Global Environmental Politics*, Westview Press, 2013

Community). The growth and inclusiveness of NGOs, usually excluded from conventional interstate diplomacy, make this system an example of the so-called praxis of «sustainable diplomacy»⁴⁰⁸, which aims at meeting the need to convert ecological discourse into diplomatic policy, so as to create a more intimate and profound understanding of the lives, beliefs and concerns of people on the ground⁴⁰⁹. Such praxis is rooted in the pledge to be in open dialogue with multiple conversation partners and actors⁴¹⁰. Within this system, these actors have become significant entities with skills and resources to deploy in the process of global environmental cooperation⁴¹¹. Thanks to the expansion of new international political opportunities (whose two main components have been the increase of resource mobilization and political access)⁴¹², nowadays most of NGOs can meet in some formal and informal sessions to discuss, to exchange views, to supply daily bulletins of negotiation rounds, to engage in parallel fora, to formulate proposals and to negotiate issues related to climate technical issues. To do this, NGOs have progressively developed a range of mechanism and procedures to communicate their positions, to coordinate their action and clarify

⁴⁰⁸ See Wellman D.J., *The Promise of Sustainable Diplomacy: Refining the Praxis of Ecological Realism*, in Costantinou C., Der Derian J., *Sustainable Diplomacies*, Palgrave Macmillan, 2010

⁴⁰⁹ Wellman D.J., *Sustainable Diplomacy. Ecology, Religion and Ethics in Muslim-Christian Relations*, Palgrave Macmillan, 2004

⁴¹⁰ See Wellman D.J., *The Promise of Sustainable Diplomacy: Refining the Praxis of Ecological Realism*, in Costantinou C., Der Derian J., *Sustainable Diplomacies*, Palgrave Macmillan, 2010

⁴¹¹ Raustiala K., *States, NGOs and International Environmental Institutions*, *International Studies Quarterly*, 41, 1997

⁴¹² For a comprehensive introduction to the historical growth of NGOs and the concept of political opportunity structure (POS) see Reimann K., *A View From the Top: International Politics, Norms and the Worldwide Growth of NGOs*, *International Studies Quarterly*, 50, 2006

their role *vis-à-vis* the States⁴¹³. It is a dynamic interaction that sees the States firmly remained at the «driver's seat» and the NGOs as «passengers» so far⁴¹⁴. All this system of multifaceted interactions among these groups of actors is guided by formal rules, directive principles, informal practices and soft law⁴¹⁵ that the United Nations has developed over several decades⁴¹⁶. Within such large operational framework, the cross-cutting nature of climate as policy-issue has rapidly engendered multidimensional interactions and strategic linkages⁴¹⁷ with other areas and other institutions which can often go beyond the climate-issue as such. As observed by Jinnah, nowadays it is rather difficult to find an international organizations, governmental or non-governmental agency, national or multinational firm, university, foundation, church that does not have a climate-relevant goal or focus⁴¹⁸. With the participation of 188 States Parties of the UN Framework Convention on Climate Change, each UNFCCC CoP accounts for a world forum of approximately 9,000 participants, including officials from around 3,000 to 5,000 representatives of Governments, organs and UN agencies up to over 1,200 NGOs and IGOs' observers now accredited to attend the Plenary of the Conferences⁴¹⁹. Put in Jinnah's words, it seems that «everyone, from

⁴¹³ Langhorne R., *The Diplomacy of Non-States Actors*, Diplomacy and Statecraft, Routledge, 16, 2005

⁴¹⁴ See Bernauer T., Betzold C., *Civil Society in Global Environmental Governance*, The Journal of Environment and Development, 21, 2012

⁴¹⁵ As for the relationship between soft law and climate politics, see Eckersley R., *Soft Law, Hard Politics and the Climate Change Treaty*, in Reus-Smit C., *The Politics of International Law*, Cambridge University Press, 2004

⁴¹⁶ See Susskind L., *Environmental Diplomacy*, Oxford University Press, 1994

⁴¹⁷ See Jinnah S. *Climate Change Bandwagoning: The Impacts of Strategic Linkages on Regime Design, Maintenance and Death*, Global Environmental Politics, 11,3 MIT, August 2011

⁴¹⁸ Jinnah S. *Climate Change Bandwagoning: The Impacts of Strategic Linkages on Regime Design, Maintenance and Death*, Global Environmental Politics, 11,3 MIT, August 2011

⁴¹⁹ Official data from the *Earth Negotiations Bulletin*, IISD, COP18 FINAL, 11/12/12

McDonald's to the Vatican, is jumping on the proverbial climate change bandwagon»⁴²⁰. Such trend definitely shows that global climate politics has risen in political importance by leading newspaper headlines across the world and by infusing diplomatic discussions on a specific topic, that is climate, which has required the above-mentioned need to create a specialized technical sub-branch of diplomacy, precisely called *Climate Diplomacy*.

However, the current process of climate negotiations seems to be «in a limbo»⁴²¹. What is more, such limbo directly affects the functioning of the global climate governance at UN level. According to David Held, the limits of the climate governance would be nothing but the most evident symptom of a general failure of global governance⁴²². Put in other words, the insufficient progress so far made in generating «a sound and effective framework for managing global climate change would be one of the most serious indicators of the challenges facing the multilateral order»⁴²³. Held is right in arguing the partial failure of the current global climate governance in achieving immediate successful results. This observation is plain, but it is also important to not jump to any hurried pessimistic conclusions. What is crucial here is the call for a strong green leader able to overcome this “limbo”. In this sense, the further question to ask is why the EU has been struggling so hard in order to promote its leadership in climate change negotiations? This leadership has been constantly tested and

⁴²⁰ Jinnah S. *Climate Change Bandwagoning: The Impacts of Strategic Linkages on Regime Design, Maintenance and Death*, Global Environmental Politics, 11,3 MIT, August 2011

⁴²¹ Gupta J., *Climate Change and Developing Countries: From Leadership to Liability*, in Di Paola M., Pellegrino G., *Canned Heat*, Routledge, 2014

⁴²² Held D., *Climate Change, Democracy and Global Governance: Some Questions*, in Di Paola M., Pellegrino G., *Canned Heat*, Routledge, 2014

⁴²³ Held D., *Climate Change, Democracy and Global Governance: Some Questions*, in Di Paola M., Pellegrino G., *Canned Heat*, Routledge, 2014

overstretched with different outcomes time by time: from Kyoto in 1997 to Bali in 2007, when the Climate Change Conference agreed a new deal paving the way for a new agreement after 2012 (the expiry date of the Kyoto regime), up to Copenhagen in 2009, when the final deal recognized the need to limit global temperature rise to 2°C, without envisaging any legally binding commitments and the high parties were only asked to submit voluntary reduction targets on the basis of the appendix of the accord⁴²⁴. Against this various historical background, which are the political and institutional factors that currently limit the EU influence in leading the process towards a climate change global agreement in 2015?

3. Political and institutional factors that currently limit the EU influence in leading the process towards a climate change global agreement.

There are several possible explanatory factors which account for the EU's (under)performance in the course of the last twenty years of climate negotiations. They include: the presence of a credibility-gap; the EU's substantial lack of a "muscle" hard power; the structural complexity for reaching a global agreement; the behavior of the other players; the EU complex institutional architecture; the EU problematic strategic planning; the so-called phenomenon of the "EU bunker" mentality; and, last but not least, the persistent difference in interpreting the principle of Common but Differentiated Responsibility between Developed Countries and Developing Countries.

⁴²⁴ For a specific survey on the limits and shortcomings occurred at the Copenhagen Climate Change Conference in December 2009, see the Conclusions of this work.

- First of all, there still is a credibility-gap⁴²⁵ of a self-proclaimed leader (the EU) that, in its turn, comes from a capability-expectations gap⁴²⁶. This aspect is not just a matter of perception, but it becomes particularly relevant if we think that – as observed by Underdal – negotiations is not only a decision-making process, it is also an unofficial game of performance and reputation⁴²⁷. If it is true that the Union has gained significantly in stature and international recognition as a «central protagonist in the climate regime saga»⁴²⁸, it is also important to avoid the risk of a «self-inflicted rhetorical trap»⁴²⁹. This means that if we carry on raising overly excessive expectations on the EU as «champion of multilateralism, transnationalism, democracy and cooperation»⁴³⁰, the EU will be inevitably doomed to failure and disappointment. In this way, such capability-expectations gap will be always unrealistic to fill. On the contrary, the EU should be first analyzed on its own merit rather than as it ought to be according to abstract patterns from the past

⁴²⁵ For the credibility-gap between international promises and domestic implementation as the so-called Achilles' heel of the EU environmental leadership, see Oberthür S., Kelly C., *EU Leadership in International Climate Policy: Achievements and Challenges*, The International Spectator, 43, 3, 2008

⁴²⁶ For the original conceptualization of the so-called “capability-expectations gap” see Hill C., *The Actors in Europe's Foreign Policy*, Routledge, 1996. See also Hill C., *Closing the Capability-Expectations Gap*, in Peterson J., Sjursen H., *A Common Foreign Policy for Europe: competing visions of the CFSP*, Routledge, 1998

⁴²⁷ Underdal A., *Causes of Negotiation Failure*, European Journal of Political Research, 11, 2, 1983

⁴²⁸ Afionis S., *The European Union as a Negotiator in the International Climate Change Regime*, International Environmental Agreements: Politics, Law and Economics, 11, Springer, 2011

⁴²⁹ For the inherent risk of the EU “self-inflicted rhetorical trap” and the call to distance the EU from idealistic blueprints and to take more effective and pragmatic action in foreign policy, see Mayer H., *The Challenge of Coherence and Consistency in EU Foreign Policy*, in Telo' M., Ponjaert F., *The EU's Foreign Policy. What Kind of Power and Diplomatic Action?*, The Globalisation, Europe, Multilateralism Series, Ashgate, 2013

⁴³⁰ See Cross M., *Sustainable Diplomacy in the European Union*, in Costantinou C., Der Derian J., *Sustainable Diplomacies*, Palgrave Macmillan, 2010

or determinist approaches to its future⁴³¹. In our work this important pragmatic re-conceptualization has also been applied to the EU environmental foreign policy. Indeed, studying such re-conceptualization does not mean to take a strict normative political stance on environmental issues, but rather to understand and explain the political dynamics at stake, without being cynical nor fatalistic, but simply trying to investigate the circumstances and implications that allow the EU to better achieve its political objectives. By adopting this perspective, some argue that the EU is much more of an actor in climate policy than it is in other areas, notably the CFSP. According to them, the EU as environmental policy actor has been a great deal more successful than the EU as a foreign policy actor under the CFSP⁴³². Despite the persisting existence of a “capability-expectations gap” in climate domain, it would be nevertheless difficult to deny the distinct role of the EU during climate negotiations⁴³³. This been said, the EU leadership has often continued to be perceived among the other negotiators to be strong in rhetoric and weak in action⁴³⁴. Against this background, a further element can be added in our analysis: the fact that the official documents of the EU Institutions so frequently and explicitly make reference to the European leadership in climate negotiations might well have other aims apart from the external one of promoting an international climate regime: the rhetoric of the EU leadership is not only “a trap”, but it might be done for internal political

⁴³¹ See Telo’ M., Ponjaert F., *The EU’s Foreign Policy. What Kind of Power and Diplomatic Action?*, The Globalisation, Europe, Multilateralism Series, Ashgate, 2013

⁴³² Connelly J., Wurzel R., *The European Union as a leader in international Climate change politics*, Routledge, 2011

⁴³³ Ibidem

⁴³⁴ See Yamin F., *The Role of the EU in Climate Negotiations*, in Gupta J. et al., *Climate Change and European Leadership: A Sustainable Role for Europe?*, Kluwer Academic Pub., 2000

reasons such as to increase the democratic legitimacy of the Union, by showing the European voters that the Union is actively doing its best as united leader on the international political scene⁴³⁵.

- According to the realist approach, a possible answer to the EU (under)performance during the UNFCCC negotiations could consist of the fact that the EU lacks “*hard power*”. So that, it would be unable to provide a strong structural leadership in international climate change politics. In other words, the EU’s overreliance on soft, normative, civilian power would be insufficient to persuade powerful countries, such as US, China and India to follow the EU commitment⁴³⁶. On the contrary, it is a slightly different story with weaker Parties (most of African and Caribbean Countries). In their eyes, the EU seems to be particularly strong by the virtue of its economic weight. Thanks to this weight, the Union can successfully adopt a more uncompromising stand in front of smaller countries, in a tactics that could be summarized under the expressions “*There are no free lunches*” or “*We have cooked up a deal: take it or leave it*”⁴³⁷. But – of course – such tactics cannot work with economic giants, such as US, China, India, Brazil⁴³⁸.
- Another factor that currently limits the EU influence in leading the process towards a climate change global agreement relates to the inherent nature of the challenge at stake: here we are talking about “tuning/conciliating the

⁴³⁵ See Costa O., *Who decides EU foreign policy on climate change? Actors, alliances and institutions* in Harris P., *Climate Change and Foreign Policy: case studies from East to West*, Routledge, 2009

⁴³⁶ See Connelly J., Wurzel R., *The European Union as a leader in international climate change politics*, Routledge, 2011

⁴³⁷ Bretherton C., Vogler J., *The European Union as a Global Actor*, Routledge, 2006

⁴³⁸ See Afionis S., *The European Union as a Negotiator in the International Climate Change Regime*, *International Environmental Agreements: Politics, Law and Economics*, 11, Springer, 2011

world”⁴³⁹. It is a challenge without historical parallel. As noted by Morgera, the rounds of negotiations on climate change have become the most complex form of international cooperation of our times⁴⁴⁰. It is dizzyingly complex both in terms of content and in terms of procedure. In terms of content, climate policy is a long-term policy that has to be undertaken in the context of sustainable development⁴⁴¹. The issue *itself* is serious and complex because global climate change is the main challenge humanity shall face in the 21st century and beyond⁴⁴². Despite this, we still lack not just robust institutions to confront it, but also robust theories to understand it⁴⁴³. Such substantial lack of valid and robust theories is also due to the fact that the politics of global environmental governance is always evolving and all the tools and methods to understand it need to evolve with it⁴⁴⁴. One of the other structural factors which tend to increase the complexity of the diplomatic negotiations on climate is the heterogeneity of the States involved in such mega decision-making process, as well as a different outcome of the cost-benefit analysis carried out by each State (see PART I). In terms of procedure, the process appears to be particularly complex because, as pointed out by

⁴³⁹ See Biancheri B., *Accordare il Mondo. La Diplomazia nell'età globale*, Laterza, 1999

⁴⁴⁰ Morgera E., *Le regole di Copenaghen*, Accordi climatici, foreste, Relazioni Nord-Sud, in *Equilibri*, XIII, n.3, Il Mulino, 2009

⁴⁴¹ Gupta J., Ringius L., *The EU's Climate Leadership: Reconciling Ambition and Reality*, International Environmental Agreements: Politics, Law and Economics, Kluwer Academic Publishers, 1, 2001

⁴⁴² See Di Paola M., Pellegrino G., *Introduction: The Ethics and Politics of Climate Change: Many Themes, a Common Global Challenge*, in *Canned Heat*, Routledge, 2014. For the struggle to govern climate change as one of today's greatest challenges see also Giddens A., *The politics of Climate Change*, Politybooks, 2009

⁴⁴³ Di Paola M., Pellegrino G., *Introduction: The Ethics and Politics of Climate Change: Many Themes, a Common Global Challenge*, in *Canned Heat*, Routledge, 2014

⁴⁴⁴ See Morin J., *Global Environmental Governance*, in Telo' M., *Globalisation, Multilateralism, Europe. Towards a Better Global Governance*, Ashgate, 2013

Depledge, when it comes to decision-making, the UNFCCC is indeed a rather “odd bird” in the UN family⁴⁴⁵. Indeed, the UNFCCC, as central *forum* for the organization of global climate governance, is an independent treaty body which has yet to adopt clear and shared rules of procedure with the respect of the functioning of the vote. This means that, without formal voting procedures, all decisions – to be adopted – require, if not unanimous agreement, at least consensus⁴⁴⁶.

- In the case of international environmental diplomacy, the EU plays both as a single actor and as a group of 28 sovereign states represented by the Rotating Council Presidency⁴⁴⁷. In the light of a combination of legal and practical *modus operandi*, while the Commission is in charge of the EU negotiation pursuant to art. 218 TFEU, the Rotating Presidency of the Union is responsible for coordinating the Member States and finally presenting a common EU position. In the view of the climate change international negotiation rounds, common EU position has been agreed in advance by the Member States, with the participation of the Commission⁴⁴⁸. Indeed, while for a sovereign State coordination is the process whereby officials from different departments meet to cooperate on a given issue, for the EU the exercise is much more articulated because it means to involve officials from

⁴⁴⁵ Depledge J., *The Organization of Global Negotiations: Constructing The Climate Change Regime*, Earthscan, 2005

⁴⁴⁶ See Friman M., *Building legitimacy. Consensus and conflict over historic responsibility for climate change*, in Methmann C. et al., *Interpretive Approaches to Global Climate Governance. (De)constructing the greenhouse*, Routledge, 2013

⁴⁴⁷ Afionis S., *The European Union as a Negotiator in the International Climate Change Regime*, *International Environmental Agreements: Politics, Law and Economics*, 11, Springer, 2011

⁴⁴⁸ See Afionis S., *The European Union as a Negotiator in the International Climate Change Regime*, *International Environmental Agreements: Politics, Law and Economics*, 11, Springer, 2011

28 departments of 28 different governments, not mention the DGs (at least two) of the European Commission⁴⁴⁹. In the procedural sequence, the proposal for a negotiating mandate or a common platform in the view of a UNFCCC Conference is first discussed in the competent Council Working Group (the WPIEI, the Working Party on International Environmental Issues), then in Coreper I and finally in the Environmental EU Council of Ministers. If this description seems to perfectly work on paper in a static framework, the situation can dramatically change in a more dynamic context, that is, when UNFCCC negotiations have already started and are fully under way. Here it comes what has been called the «Herculean problem of co-ordination»⁴⁵⁰, which means to accommodate and coordinate sub-meetings within a negotiation, not to mention the tendency of some Member States to defy EU Council Rotating Presidency leadership during the negotiation and to cut deals with other Parties⁴⁵¹. For instance, this had been the case of CoP6 when United Kingdom tried to by-pass the French Presidency and to build a direct line with the US at the Hague Climate Change Conference in 2000⁴⁵². This kind of difficulties of coordination among Member States often produces a lack of the necessary flexibility, which is a fundamental component for a successful international negotiation. In such dynamic context, all upcoming issues during the climate negotiations have to be previously discussed into

⁴⁴⁹ See Afionis S., *The European Union as a Negotiator in the International Climate Change Regime*, International Environmental Agreements: Politics, Law and Economics, 11, Springer, 2011

⁴⁵⁰ See Grubb M., Yamin F., *Climate Collapse at the Hague. What happened and where do we go from here?*, International Affairs, 77, 2, 2001

⁴⁵¹ See Grubb M., Yamin F., *Climate Collapse at the Hague. What happened and where do we go from here?*, International Affairs, 77, 2, 2001

⁴⁵² See http://unfccc.int/meetings/the_hague_nov_2000/meeting/6363.php. In particular, see Ott H., *Climate Change: An Important Foreign Policy Issue*, International Affairs, 77, 2, 2001

the intra-EU coordination and can be blocked by any Member State, by limiting the EU's overall ability to react swiftly in the negotiation⁴⁵³. This complication facing the EU during the course of international climate change negotiations is known as the “*EU bunker*” phenomenon⁴⁵⁴, occurring when any kind of upcoming change of position and new proposals by other international actors during the negotiations finishes up requiring new further internal consultations within the EU, so as to be a major source of delay and frustration with endless re-coordination meetings and the inflexibility of the original Council Mandate⁴⁵⁵. So it happens that, while the crucial UNFCCC core-negotiation begins and the final decision is close to be taken, the EU 28 Environmental Ministers are still presumably trying to re-establish a common position in another room⁴⁵⁶: so that, the EU remains locked in its bunker, too busy and preoccupied for its internal coordination⁴⁵⁷.

On the one hand, the EU bunker has a strategic benefit for the EU, because it allow the EU negotiators to have a “on-the-spot coordination meeting” with a debriefing on the overall developments in the various negotiations groups, multiple all-night sessions and high-level *huddles*⁴⁵⁸, to exchange, to share

⁴⁵³ Van Schaik L., *The Sustainability of the EU's Model for Climate Diplomacy*, in Oberthür S., et al., *The New Climate Policies of the European Union*, VUBPRESS 2010.

⁴⁵⁴ Vogler J., *The External Environmental Policy of the European Union*, in Stokke O. et al., *Yearbook of International Cooperation on Environment and Development 2003/2004*, Earthscan, 2004

⁴⁵⁵ Vogler J., *The External Environmental Policy of the European Union*, in Stokke O. et al., *Yearbook of International Cooperation on Environment and Development 2003/2004*, Earthscan, 2003

⁴⁵⁶ Grubb M., Yamin F., *Climate Collapse at The Hague: What happened, why and where do we go from here*, *International Affairs*, 77, 2, 2001

⁴⁵⁷ Van Schaik L., *The Sustainability of the EU's Model for Climate Diplomacy*, in Oberthür S., et al., *The New Climate Policies of the European Union*, VUBPRESS 2010.

⁴⁵⁸ In the technical jargon of UNFCCC Conferences, the word “huddles” is an expression borrowed from rugby language to indicate groups of players/negotiators who

and to collect information coming from the actors of 28 Member States about the state of play of international negotiations, that otherwise it could not be fully monitored because most of the processes during the CoPs happen simultaneously and no Member State would be able to follow everything⁴⁵⁹. On the other hand, the amount of time and diplomatic resources that is required for these intra-bloc negotiations often means that the Union is conducting «a conference within the conference»⁴⁶⁰. The new position to take by the EU negotiator has to be updated throughout this “re-coordination meeting” within the EU bunker on the basis of the reactions of the Member States (who usually use the EU bunker also to operate an *ad locum* state-control function on the EU negotiators⁴⁶¹) and on the basis of the developments at international level⁴⁶². So, new instructions to the EU negotiator will follow, by taking four main possible forms: 1) the discussion of an issue without an outcome on paper; 2) a bulleted list with elements that can be used in negotiations and from which the EU negotiator can choose the elements he wants to use at international level; 3) the preparation of a paper with speaking points and official statements for intervention during the international negotiation; 4) a structured proposal for an article that the EU would like to see filled in the final Declarations of the CoPs or, even better, in the final juridical environmental agreement⁴⁶³. The phenomenon of EU bunker, which often opts for the quicker of the above mentioned four

gather in a circle to consult each other on the tactics to be adopted shortly before the start of the match/negotiation round.

⁴⁵⁹ Delreux T., *The EU as International Environmental Negotiator*, Ashgate, 2011

⁴⁶⁰ Barston R., *Modern Diplomacy*, Pearson Longman, 2006

⁴⁶¹ Delreux T., *The EU as International Environmental Negotiator*, Ashgate, 2011

⁴⁶² Ibidem

⁴⁶³ Ibidem

solutions, has happened in several occasions, such as the final striking night on 10th - 11th December 1997 in Kyoto⁴⁶⁴, the CoP6 of The Hague in 2000⁴⁶⁵ and the CoP15 of Copenhagen in 2009⁴⁶⁶: in all these crucial circumstances, as a consequence of the EU bunker mentality, the UNFCCC final decisions were going to be taken while the European Environment's Ministers were still debating and trying to coordinate their common position in another room. Summing up, such complex, endless exercise of EU intra-bloc coordination which follows a process of re-negotiation is often time-consuming and delays prompt action.

- Furthermore, over the last ten years, the risk of the EU bunker phenomenon has been amplified by the progressive enlargement of the Union up to 28 Member States, by increasing the costs and the time of environmental decision-making within the EU. The ex - Eastern bloc Member States (Poland in particular) tend to make more difficult for the Union to develop and maintain a coherent, ambitious leadership position in international environmental politics⁴⁶⁷. As a consequence, this increased heterogeneity is having a quite significant impact upon preference formation within the EU⁴⁶⁸. If there is a consolidated awareness among Member States that the EU coordination and external representation is an enabling factor for unity, the

⁴⁶⁴ See Oberthür S., Ott H., *The Kyoto Protocol: International Climate Policy for the 21st century*, Springer 1999

⁴⁶⁵ See Grubb M., Yamin F., *Climate Collapse at The Hague: What happened, why and where do we go from here*, International Affairs, 77, 2, 2001

⁴⁶⁶ See Giddens A., *Big Players, a positive accord*, Policy Network, 10/01/2010

⁴⁶⁷ See Braun M., *Europeanization of Environmental Policy in the new Europe*, Ashgate, 2014

⁴⁶⁸ See Connelly J. et al., *The European Union as a leader in international Climate change politics*, Routledge, 2011

fact that all EU Member States will finally defend and agree upon a common position has not to be taken always for granted⁴⁶⁹.

- Sometimes, the EU seems to be still ill-equipped to offer political leadership because decision-making powers are dispersed among a wide range of actors including EU Institutions (the Commission) and Member States (the Rotating Presidency)⁴⁷⁰. It has been observed that the latter often focuses too much on itself and runs the risk to consider leadership as an end in *itself*, so as to excessively insist on too progressive and overly ambitious proposals of CO2 reduction targets that other international partners would finish up considering as “not serious” because completely out of reality⁴⁷¹. It is plausible to think that the Rotating Presidency doesn't tend to take into account *diffuse reciprocity*⁴⁷²: the Member State under Presidency would just want an immediate success to collect at the end of its six-months term, without reflecting too much about the afterwards⁴⁷³.

⁴⁶⁹ See Gstöhl S., *Patchwork Power Europe? The EU's Representation in International Institutions*, European Foreign Affairs Review, 14, 2009

⁴⁷⁰ See Connelly J. et al., *The European Union as a leader in international climate change politics*, Routledge, 2011

⁴⁷¹ Afionis S., *The European Union as a Negotiator in the International Climate Change Regime*, International Environmental Agreements: Politics, Law and Economics, 11, Springer, 2011

⁴⁷² For a comprehensive definition of *diffuse reciprocity* as «an ongoing series of sequential actions which may continue indefinitely, never balancing, but continuing to entail mutual concessions, within the context of shared commitments and values», see Telo' M., *State, Globalization and Multilateralism*, Springer, 2012. According to the institutional norm of diffuse-reciprocity, players base their negotiation behavior on the understanding that they have to continue cooperating with each other in the future, while waiting for middle and long-term advantages that can appear in different policy-fields of cooperation. For the institutional norm of diffuse reciprocity as applied to Multilateral Environmental Agreements, see Delreux T., *The EU as International Environmental Negotiator*, Ashgate, 2011. See Caporaso J., *International Relations Theory and Multilateralism: the Search for Foundations*, International Organization, 46,3, 1992. See also, Keohane R., *Reciprocity in International Relations*, International Organization, 40, 1986.

⁴⁷³ Delreux T., *The EU as International Environmental Negotiator*, Ashgate, 2011

- Among the other factors that can influence the EU performance in international negotiations there are: the action of issue-specific power such as commercial interests⁴⁷⁴, the strong will and personal authority of political leaders, not to mention the overall context of the negotiating environment⁴⁷⁵. In short, it is a situation dealing with the overlapping coexistence of numerous cross-setting, intertwining factors that, if taken together, contribute to increase the level of complexity of the entire open-ended negotiation process. The final outcome of the EU performance in UN climate talks is also difficult to predict and to calculate because whether the EU is or not effective in environmental negotiations is very much influenced by the behavior of its negotiating non-EU partners and by the perceptions of the other players who are involved⁴⁷⁶ - including the external perceptions they have on the EU as global player⁴⁷⁷. That is to say that the external context still remains a largely independent variable. In this context, the recent re-engagement of the U.S. – as announced by Barack Obama on August 3rd 2015 with the launch of the so-called *Clean Power Plan*⁴⁷⁸ setting achievable standards to reduce CO2 emissions by 32% from 2005 levels by 2030 – has to be welcome as a positive signal at the time of writing.

⁴⁷⁴ See Gstöhl S., *Patchwork Power Europe? The EU's Representation in International Institutions*, European Foreign Affairs Review, 14, 2009

⁴⁷⁵ See Rhinard M., Kaeding M., *The International Bargaining Power of the European Union in "Mixed" Competence Negotiations*, Journal of Common Market Studies, 44, 5, 2006

⁴⁷⁶ See Van Schaik L., *The Sustainability of the EU's Model for Climate Diplomacy*, in Oberthür S., et al., *The New Climate Policies of the European Union*, VUBPRESS 2010.

⁴⁷⁷ See Lucarelli S., Fioravanti L., *External Perceptions of the European Union as a Global Actor*, Routledge, 2010

⁴⁷⁸ See <https://www.whitehouse.gov/climate-change>

- Finally, over the last ten years of UN climate negotiations, the outstanding disagreement that still remains to be fully resolved among the UNFCCC Parties lies in the different interpretation each one gives to the principle of Common but Differentiated Responsibility (see PART I): in particular, it deals with the post-colonial approach by which many big developing countries' governments continue to read and apply this principle on climate. According to such postcolonial critics raised by most of Developing Countries led in particular by India, environmentalism would be "something for the rich": it is distinctly a preoccupation for Western wealthy people⁴⁷⁹. It would be climbing up in the EU and US middle classes' hierarchy pyramid of needs and values inherently linked to culturally-specific visions of individual and collective responsibility. Under the theoretical framework of post-colonialism, most of developing countries have affirmed two fundamental statements: first, the recognition of the *different* historical responsibility for causing climate change; secondly, the call for differing responsibility to address the problem of climate change, according to a *per-capita* equity calculation. Geographically speaking, such postcolonial perspective on environmental politics is prominently focused on viewing the reality (including climate change) from the "Periphery". As a consequence, postcolonial studies tend to adopt a geographically and historically limited local vision rather than a universal perception of the problem. While the Western approach to environmental justice maintains a comprehensive theoretical universalism, postcolonialism has often run the risk to plunge into

⁴⁷⁹ Guha R. et al., *Varieties of Environmentalism: Essays North and South*, EarthScan, 1997

a «militant particularism»⁴⁸⁰. Unsurprisingly, such radical result is not but the consequence of a strong anti-Eurocentrism and an emphasis on cultural localism as applied to environmental justice. In this sense, it can be argued that both of these postcolonial tenets indirectly imply a cultural rejection of universalism and that such lack of universal consciousness is probably also one of the main explaining factors of the current policy gridlock in climate change negotiations⁴⁸¹.

The last controversial element of emphasis used by post-colonialism in approaching environmental politics is the importance given to the so-called ecological debt in charge of the North. It recalls the classical postcolonial arguments of justice in the form of reparations. More precisely, claims for reparations would be the effective consequence of the postcolonial argument, on the basis of the past historical injustices – here not only linked to slavery, racial oppression, mass human rights violations⁴⁸² – but also to exploitation of natural resources by the “Europeans” and the environmental degradation due to the Western long-standing industrialization’s process. Here, the underlying binary logics of Colonizer/Colonized, Victim/Perpetrator, Polluter/Polluted seems to remain broadly the same, without any possible pacific way-out solution if the past colonizer and past colonized, the past victim and the past perpetrator, the past polluter and the past polluted do not start growing a shared feeling of collective consciousness. In the light of the most recent outcomes of the UN Climate change conferences, such feeling of

⁴⁸⁰ See Harvey D., *Justice, Nature and the Geography of Difference*, Blackwell, 1996

⁴⁸¹ See Berionni Berna E., *La governance sul clima nel dopo-Kyoto. Il principio di responsabilità comune ma differenziata e la sua applicazione in materia di cambiamenti climatici*, Gazzetta Ambiente - Rivista sull’ambiente e territorio 2/2013

⁴⁸² See Miller J. et al., *Reparations: Interdisciplinary Inquiries*, Oxford University Press, 2007

collective consciousness still seems to be a long way off. The postcolonial approach to the issue of climate change possesses the traits of what it can be called an “antagonist ideology”. It has started by questioning the objectivism of the IPCC Working Group Assessment Reports on Climate Change since the 1990s. The reports have been seen as a product entirely made by individuals and governments of the West. In particular Indian delegates saw it as the agenda reflection of Northern de-industrializing countries without paying any attention to the interests and concerns of the South⁴⁸³. Again, postcolonial thinkers have denounced the so-called «highly partisan’s One-Worldism» inherent in Western prescriptions largely inspired by the outcomes of the Brundtland Report in 1987. One of the most contemptuous rhetorical question posed by postcolonial authors has been: «Whose future generations are you seeking to protect, the Western World’s one or the Third World’s?»⁴⁸⁴. As well, also environmental cornerstone’s masterpieces such as *The limits to growth* and *The Tragedy of the Commons*⁴⁸⁵ in the 1970s had been originally met with strong suspicious skepticism from Third World intellectual elites: they saw those discourses as masked vehicles for neo-colonialism. In this context, a leading role in applying a post-colonial approach in UN climate talks has been so far particularly played by India. During the last UN Conference of Parties in Lima 2014, India has still kept a firm official position around the link between responsibility, solidarity,

⁴⁸³ Rajan M., *Global Environmental Politics: India and the North South Politics of Global Environmental Issues*, OUP Ed., 1997

⁴⁸⁴ Agarwal, A. et al., *Global warming in an unequal world: A case of environmental colonialism*. New Delhi, Centre for Science and Environment, 2010.

⁴⁸⁵ See Hardin G., *The Tragedy of the Commons*, in *Science*, 1968, vol.162; Meadows D., *The Limits to Growth*. The First Report to the Club of Rome, Universe Book, New York, 1972

financial support and technology transfer from the North to the South. Over time, India has built its position around a particular interpretation of the principle of Common but Differentiated Responsibility, by emphasizing no emission targets for developing countries. Nearly twenty-five years later, the Indian stance continues to insist on the argument of the historical responsibility for emissions, by arguing for equity between nations in a historical perspective grounded on *per-capita* emissions. According to Indian postcolonial stances, the North would have an ecological debt towards the South⁴⁸⁶. Western countries should entirely bear the burden of mitigation, in addition to offering financial assistance and technological transfer for Developing Countries. As a consequence, India has refused any legally binding commitments to contribute to reduce global warming, while claiming for the right to any remaining «atmospheric space»⁴⁸⁷.

Among the several criticisms raised by most of Developing Countries during the UN Climate Change Conferences, the Indian delegation has also contested the formula of *Pactum de contrahendo* for 2015. Developing Countries (including India) would have been asked to sign an agreement in a “blind-sight”, without knowing yet the legal content of the climate global agreement that will be signed in December 2015 in Paris. This is also why the Indian Minister of Environment and Forests, Jayanthi Natarajan, was very clear in her National Statement in Durban 2011: «I am asked to sign a blank cheque and to put the quality of life of 1.2 billion Indians in danger, without even knowing what's in the roadmap. And I wonder if this is not an agenda

⁴⁸⁶ See Martinez-Alier J., *The Environmentalism of the Poor: A Study of Ecological Conflicts and Valuation*, UNRISD, 2002

⁴⁸⁷ Joshi S., *Justice, Development and India's climate politics. A postcolonial political ecology of the atmospheric commons*, Udini Ed., 2011

that moves the weight of actions on those who cannot be held responsible for global warming»⁴⁸⁸.

Political declarations and national statements apart, a more analytical exercise of conceptualization can now be done in assessing climate politics and investigating the position of Developing Countries. In particular, Dubash has formulated an interesting scheme of the three Indian diplomatic strategies on climate change, each one corresponding to a proper political reading, a philosophic demand, a domestic political agenda, a international strategy and catch-phrase slogans.

	Growth first stonewallers	Progressive Realists	Progressive Internationalists
Political reading	<i>Geopolitical threat</i>	<i>India as excuse – Fatalism</i>	<i>India as excuse – Cooperation</i>
Philosophic Demand	<i>Equity</i>	<i>Equity</i>	<i>Equity + climate effectiveness</i>
Domestic Agenda	<i>Growth first</i>	<i>Co-benefits</i>	<i>Co-benefits</i>
International Strategy	<i>Stonewall commitments</i>	<i>Focus at home, Delink globally</i>	<i>Link domestic and global</i>
Slogans	<i>It's our turn!</i>	<i>It's an unfair world!</i>	<i>Seize the moment!</i>

Source: Dubash, N. K., *Toward a progressive Indian and global climate politics*, Centre for Policy Research, 2009

⁴⁸⁸ Quoted in Canepa A., *Durban a metà*, Primo piano, La Nuova Ecologia, Gennaio 2012. See also http://unfccc.int/meetings/durban_nov_2011/meeting/6245.php

Until now India has adopted a Growth First/Stonewallers approach, largely inspired by postcolonial tenets⁴⁸⁹. In doing that, it has allowed climate talks to become a springboard for a reinvigorated North-South agenda along the lines of earlier unsuccessful claims for the past New International Economic Order of the 1970s⁴⁹⁰.

To conclude this point, it is difficult to predict the future behavior of India and other big Developing Countries in the next UNFCCC CoPs in Paris. Besides, it is likely that a persistent *stonewaller* position will not be a “sustainable” strategy in the long run, given their high vulnerability and exposure to climate change. Even economically speaking, it has been estimated that India, like other Developing Countries, may lose up to 1.7% of its GDP if the annual mean temperature rises by one degree Celsius compared to pre-industrialization level, hitting the poor the most⁴⁹¹. What is worse, the last *IPCC's Fifth Assessment Report on Climate Change*⁴⁹² has warned that the growing effects of climate change will produce severe stress on water resources and food-grain production in the future, by increasing the risk of armed conflict among India, Pakistan, Bangladesh and China⁴⁹³. Against this background, ultimately it all comes down to the research of a pragmatic and mutually advantageous application of the principle of Common but Differentiated Responsibility which, in its turn,

⁴⁸⁹ Dubash, N. K., *Toward a progressive Indian and global climate politics*, Centre for Policy Research, 2009

⁴⁹⁰ Najam A., *Dynamics of the Southern Collective: Developing Countries in Desertification Negotiations*, *Global Environmental Politics*, 4,3, 2004. See also Roberts J. T. et al., *A climate of injustice: global inequality*, North-South Politics and Climate Policy, MIT Press, 2007

⁴⁹¹ Mohan V., *Climate Change may lead India to war*, in *The Times of India*, 01/04/14

⁴⁹² See IPCC Working Group, *Climate Change 2013: The Physical Science Basis* in <http://www.ipcc.ch/report/ar5>

⁴⁹³ Mohan V., *Climate Change may lead India to war*, in *The Times of India*, 01/04/14. For a summary of the IPCC Report 2013, see also IPCC Summary for Policy-makers, 2013: <http://www.climatechange2013.org/images/report>

underlies an open-ended classical question of international political economy:

“*Who should pay?*”⁴⁹⁴

⁴⁹⁴ See Blanchard O., *Macroeconomics: A European Perspective*, Pearson Ed., 2010

Conclusions and Perspectives.

Now, always keeping this ultimate open, vexed question in mind (*Who should pay?*), some conclusive remarks can be formulated: here, they will be presented as fourteen points in the view and in preparation of the Paris Conference in December 2015.

1. A truly global climate agreement will require the **active participation** of the Developing Countries that will result in the commitment of emissions reduction.

Such active participation would offer two immediate advantages:

- Active participation would actually share the responsibility of countries whose most recent levels of development and economic growth can no longer be classified under the category of “developing countries”⁴⁹⁵. In other words, as emphasized at paragraph 12 of the Conclusions of the EU Environment Council of October 2014, «the principle of common but

⁴⁹⁵ The issue of an objective categorization of countries for differentiation still remains open because it lacks a clear definition of developed country and developing country. The term “*developing countries*”, functional for identification of the legal regime to be applied to a country, is not at all specified by the UNFCCC nor by the Kyoto Protocol. Although it is well established in international practice that membership in the OECD would make a country among those in the Group of developed countries, that criterion was not accepted in the compilation of Annex I of the framework Convention on climate change (1992). From this point of view, the lesson of the 1987 Montreal Protocol is a good example to follow. Categories and lists in force in the Convention and the Kyoto Protocol do not already reflect the change in economic conditions that have taken place in many developing countries. Such adjustment and updating requirements with respect to changed international realities have no longer been reflected in Doha, where it left the previous classification scheme, without the introduction of new and more objective criteria – for example based on the GDP growth rate and mix of criteria and indicators – that could lead to a new and more comprehensive categorization of countries (such as India and China) whose impetuous economic growth level no longer seems neither to reflect nor to justify their belonging to the category of developing countries – parties outside Annex I of the UNFCCC. See Biniaz S., *Common but Differentiated Responsibility*, Remarks, 96, American Society of International Law Proceedings, 2002

differentiated responsibilities and respective capabilities have to be operationalized in a manner that takes into account evolving circumstances and economic realities⁴⁹⁶. So, the agreement should therefore be able to reflect these changing realities.

- An active participation with a universal membership would put an end to the widespread phenomenon of so-called carbon leakage⁴⁹⁷, as a result of the way the principle of Common but Differentiated Responsibility has been applied so far⁴⁹⁸.

2. The principle of Common but Differentiated Responsibilities reflects how international law is gradually adapting to the challenges of new realities that arise before the international community as a whole. A peaceful, balanced and integral reading of the principle will require to act on two-side complementary fronts: a call for **more cooperation by Developing Countries** and a call for **greater solidarity by the Developed Countries**.

3. A commensurate body of international political literature has formulated several **proposals** in the view of a global climate agreement. Three of them will be remarked here as follows:

⁴⁹⁶ See <http://www.consilium.europa.eu>

⁴⁹⁷ *Carbon leakage* can be defined as the increase in greenhouse gas emissions outside a region as a direct result of the domestic mitigation policy to cap emission in this region. This phenomenon may occur if, for reasons of costs related to climate policies, businesses were to transfer production to other countries which have laxer constraints on greenhouse gas emissions. This could lead to an increase in their total emissions. See <http://ec.europa.eu/clima/policies/ets>. For a general overlook of the carbon leakage phenomenon, see Burniaux J.M., *Carbon Emissions Leakages: a general equilibrium view*, OECD Publications, 2000. See also Barrett S., *Political Economy of the Kyoto Protocol*, 14 Oxford Review of Economic Policy, 1998

⁴⁹⁸ Honkonen T., *The Common But Differentiated Responsibility Principle in Multilateral Environmental Agreements: Regulatory and Policy Aspects*, Kluwer Law International Publ., 2009

- Proposal “à la Montréal”. It proposes to apply the formula already proven to the Montreal Protocol to the international climate regime: the so-called “*grace period*”, after which it will be required to Developing Countries to be fully bound in accordance with emission reduction obligations. The temporal deferral of commitments for Developed Countries could give them a separate and active status. In the light of the success of Montreal Protocol on Substances that Deplete the Ozone Layer of 1987, such device could be inserted into 2015 global climate agreement: this would allow, on the one hand, to protect Developing Countries from the likely risk to see their economic growth rates cliff suddenly down due to an immediate imposition of emissions cuts, and on the other hand, it would commit Developing Countries to take serious constraints by reducing emissions of gases⁴⁹⁹.
- *Halvorssen* Proposal⁵⁰⁰. It introduces a *tertium genus*, a third category between developed countries and developing countries: the one of the great emerging countries (BRICS), providing for the latter a differentiated regime in the sense of taking binding obligations to reduce emissions, but accompanied the establishment of a specific *ad hoc* Fund for assistance. Such mechanism could improve large polluters today (such as China and India)’s environmental performance.

⁴⁹⁹ See Gupta J., *North-South Aspects of the Climate Change Issue: Towards a Constructive Negotiation Package for Developing Countries*, *Review of European and International Environmental Law*, 8, 2009

⁵⁰⁰ Halvorssen A., *Common but Differentiated Commitments in the Future Climate Change Regime – Amending the Kyoto Protocol to Include Annex C and the Annex C Mitigation Fund*, *Colorado Journal of International Environmental Law and Policy*, 18, 2007

- *Weisslitz Proposal*⁵⁰¹. It deals with drawing a new regime of international adjustment based on a formula that incorporates both differential and absolute standards. According to this scheme, the absolute/uniform standard should consist of a regime of emission reduction obligations. This would be unique and equal for all countries (both developed and developing countries). The size of differentiation would depend on the availability of developed countries to strengthen their channels of financial assistance and technology transfer to developing countries. A bigger engagement of developed countries to cooperate on financial front would lead greater initial cost, but this could be accepted (and, in the medium to long term, offset) thanks to the increased legitimacy of a system whereby developing countries fairly accept to reduce emissions of gases and, at the same time, developed countries commit to reduce the phenomena of so-called environmental dumping practices or relocation of an industry to other countries because of laxer environmental policies.

4. An truly active and comprehensive participation inspired by a balanced and integral interpretation of the principle of Common but Differentiated Responsibility could represent an opportunity for a new configuration of the cooperative relationship between the North and the South of the world within a governance of mankind's common challenges (such as climate change), founded on shared rules more and more politically empowered.

⁵⁰¹ The content of this proposal has been developed by Weisslitz M., *Rethinking the Equitable Principle of Common but Differentiated Treatment in the Climate Regime*, in Year Book of International Environmental Law, Oxford University Press, Vol.16, 2005

5. However, a matter of fact exists: the progresses made so far in reducing emissions of greenhouse gases at global level have been very low. The theory of multilateral cooperation has explained the reasons of the negotiating gridlocks - first of all to Copenhagen in 2009⁵⁰² – by using the interaction of factors specifically related to the case of climate: a) the mutual benefits to be derived from the majority of players; b) benefits must arrive on time and this is quickly enough to justify the choices of Governments; c) internal costs required focus in the short term, while the benefits can be seen here only in the medium-long run. And it is clear that no Government is interested in working for the next government who will replace it⁵⁰³. That is to say that immediate cuts in greenhouse gas emissions are not on the political cards, domestically or internationally⁵⁰⁴. In addition to those micro-economics reasons, there are also troubles in overcoming the international deadlock created by the negotiating technique of the so-called “*I will if you will*” position of the United States, China and India during the last UNFCCC rounds. Especially in the light of these obstacles, the rise of more limited participation initiatives have soundly shown that the ideal aspiration for universal membership is no longer to be considered as «something sacrosanct»⁵⁰⁵.

6. The increasing gap between slowness in the UNFCCC decision-making process and the request for intervention by the scientific data contained in the

⁵⁰² See King D., *The Climate in Copenhagen*, Science, 326, 2009

⁵⁰³ See Telo' M., *The European Union, Regionalism and World Order*, in Santander S., *Relations internationales et regionalism. Entre dynamiques internes et projections mondiales*, Presses Universitaires de Liège, 2012

⁵⁰⁴ Harris P., *Climate Change and Foreign Policy: case studies from East to West*, Routledge, 2009

⁵⁰⁵ Verbruggen A., *Preparing the design of robust climate policy architectures*, Int. Environmental Agreements, 11, 2011

Fifth IPCC 2013 Report imposes a more general effort for rethinking the best operational levels of intervention in order to address the challenges of climate change as quickly and effectively as possible. In this work, the horizon of investigation deals with the “politics of scale”, as selective method of framing and conceptualizing reality⁵⁰⁶. In this sense, while the «minilateral»⁵⁰⁷ scheme of the Kyoto Protocol and the UNFCCC forum are still the center of global climate governance, it is important to recognize that the issue of the climate has also become subject of increasing debate into a variety of other political arenas such as Regional Organizations⁵⁰⁸, located midway between the national level and the global level represented by the United Nations system.

7. Regional Organizations (such as the EU, Asean, Mercosur) are pieces of the composite and colorful mosaic that is the multilevel governance. At the same time, they represent an interesting laboratory for environmental governance from which to start searching new and temporally more effective answers than those already experienced at global level⁵⁰⁹. As it often happens in international politics, the absence of a satisfactory global institutions tend to give rise to the development of regional structures⁵¹⁰. The adoption of a regional solution made by Regional Organizations composed of economically similar States would minimize any inherent limits to the Kyoto global climate regime: this limit was

⁵⁰⁶ Delanay D., Leitner H., *The Political Construction of Scale*, Political Geography 16, 2, 1997

⁵⁰⁷ See Eckersley R., *Moving forward in the Climate Negotiations: Multilateralism or Minilateralism?*, Global Environmental Politics, 12, 2, 2012

⁵⁰⁸ Betsill M., *Regional Governance of Global Climate Change: The North American Commission for Environmental Cooperation*, Global Envi Politics, Vol. 7, 2, May 2007

⁵⁰⁹ Berionni Berna E., *Regionalizing environmental protection? Towards a regional governance: the cases of the EU and of the ASEAN*, in Rivista studi sulla sostenibilità, Franco Angeli Ed. 2/2013

⁵¹⁰ Santander S., *Relations internationales et regionalisme. Entre dynamiques internes et projections mondiales*, Presses Universitaires de Liège, 2012

identified in the phenomenon of the so-called “affirmative multilateralism” based on strongly a-symmetrical obligations imposed between the Parties, so giving the way to a form of «reverse discrimination»⁵¹¹ against industrialized countries in the name of the principle of Common but Differentiated Responsibility⁵¹². The partial and not fully-balanced application of this principle in the field of climate change has allowed that the dimension of the differentiated responsibility prevails over the dimension of common responsibility⁵¹³. This is due to two fundamental orders of factors: on the one hand, the insufficient level of cooperation provided by developing countries and emerging economies in the common fight against climate change; on the other hand, the insufficient degree of solidarity so far expressed by most of developed countries towards developing countries, with particular reference to the delay in the operationalization of the *Climate Fund* and other additional financial resources. Unsatisfactory cooperation by developing countries and lack of solidarity on the side of developed countries have, in fact, not only prevented an acceleration in international climate negotiation process, but have also contributed to weaken the effectiveness of the climate regime at the global level⁵¹⁴. The second element of preference in favor for the regional-based scale appears to be visible in terms of decision-making and cost-reduction of transaction under negotiation due to classical advantages associated with the

⁵¹¹ Eckersley R., *Moving forward in the Climate Negotiations: Multilateralism or Minilateralism?*, *Global Environmental Politics*, 12, 2, 2012

⁵¹² See Honkonen T., *The Common But Differentiated Responsibility Principle in Multilateral Environmental Agreements: Regulatory and Policy Aspects*, Kluwer Law International Publ., 2009

⁵¹³ Berionni Berna E., *La governance sul clima nel dopo-Kyoto. Il principio di responsabilità comune ma differenziata e la sua applicazione in materia di cambiamenti climatici*, *Gazzetta Ambiente - Rivista sull'ambiente e territorio* 2/2013

⁵¹⁴ Berionni Berna E., *La governance sul clima nel dopo-Kyoto. Il principio di responsabilità comune ma differenziata e la sua applicazione in materia di cambiamenti climatici*, *Gazzetta Ambiente - Rivista sull'ambiente e territorio* 2/2013

“Small Number” of actors⁵¹⁵. In particular, the prospects for successful cooperation would seem to be proportionally inverted to the number of actors involved in the process, due to the greater difficulty in identifying and sanctioning free-rider behaviors⁵¹⁶. The argument in favor of a regional governance based on the principles of small number meets however a qualitative limit when it is applied to the specific case of environmental protection. The chances of success of regional action would be drastically reduced if the main polluters should or want to stay out of the system. The objection to the above-mentioned point is provided by Oye. He introduces a qualitative requirement in support of the thesis of “Small Number”: in order to ensure greater effectiveness to the scheme, it is not sufficient that the number of participants is reduced, but it is also necessary that the latter share common interests on specific issues⁵¹⁷, such as the protection of the environment.

The nature and the function of this issue introduces a third powerful element in favor of a system of regional governance: the practice of *issue-linkage* within regional Organizations. Described as a «simultaneous discussion of two or more issue to reach a joint solution»⁵¹⁸, the technique of issue-linkage moves from the outset that if two parties are unable to conclude an agreement by negotiating on a single issue, the addition of a second issue may increase the chances of success of the final agreement. Specifically, regional Organizations are an ideal space to

⁵¹⁵ Eckersley R., *Moving forward in the Climate Negotiations: Multilateralism or Minilateralism?*, *Global Environmental Politics*, 12,2, 2012

⁵¹⁶ See Axelrod R., Keohane R., *Achieving cooperation under anarchy: strategies and institutions* in Oye K., *Cooperation under Anarchy*. Princeton University Press, 1986

⁵¹⁷ Oye K., *Cooperation under Anarchy*, Princeton University Press, 1986

⁵¹⁸ See Axelrod R., Keohane R., *Achieving cooperation under anarchy: strategies and institutions*, *World Politics*, 1985. See also Sebenius J., *Negotiation Arithmetic: adding and subtracting issues and parties*, *International Organization*, 1983

practice this technique of linking environmental issues to other shared interests within the Organization. Since regional organizations are often the political arenas of simultaneous discussions across *multiple issues* and given the fact that each of the Parties will have different levels of intensity of interest on a given question, it will be then easier within a regional Organization to *link* the issue "environment" with another issue, by mutual bargaining and logrolling⁵¹⁹.

In addition to the above-mentioned political reasons (possibility of overcoming of the principle of Common but Differentiated Responsibilities as applied so far, economic and historical similarity between countries belonging to a Regional Organization; acceleration of the negotiation process by reducing the decision-making costs; the role and potential of the issue-linkage within regional organizations), it is possible to single out further reasons in favor of the adoption of regional scale environmental governance. A fourth reason lies in the ontological and epistemological characteristics of the regions⁵²⁰. The latter appear not only an alternative mode of reshaping international relations, but also a new vector for structuring global governance itself⁵²¹. In other words, regions are becoming increasingly important as disseminator of ideas and «change agents»⁵²², mostly as reaction to the persistent deadlocks taking place globally. In other words, as concisely noted by Ken Conca, much of the impetus for the *regional* comes from *global* failure, or at least from its stagnation⁵²³. Examples of

⁵¹⁹ Betsill M., *Regional Governance of Global Climate Change: The North American Commission for Environmental Cooperation*, Global environmental Politics, Vol. 7, 2, May 2007

⁵²⁰ Debarbieux B., *How regional is Regional Environmental Governance?* In Global Environmental Politics, MIT Press, 12,3, 2012

⁵²¹ See Farrel M. et al, *Global Politics of Regionalism*. Pluto Press, 2005

⁵²² Conca K., *The Rise of the Region in Global Environmental Politics*, Global Environmental Politics, 12,3, 2012

⁵²³ Ibidem

such trend can be exactly found in the case of the climate regime: it is experiencing a phase of regionalization through the spreading of over 43 regional and sub-regional of emissions trading systems (ETS)⁵²⁴ around the world over the last decade⁵²⁵.

A fifth element to be taken into account in the analysis relates to the so-called «vertical linkage» that Regional Organizations can play in strengthening the link between global and national dimension⁵²⁶. In fact, if natural resources cannot be managed and protected by a single level of governance, therefore it becomes crucial to develop institutional forms of connection between multiple levels. That is what is broadly called multi-level governance. Regional Organizations do offer this "bridge" between national and global scale. In this framework, the European Union constitutes one of the most advanced experiences of multilevel governance: it certainly is the most integrated and institutionally sophisticated regional entity of the world⁵²⁷.

8. The EU policies on environmental issues have not only decided to «tidy her house up»⁵²⁸, but they have also accelerated the compliance of obligations committed at the international level through the activation of a “preferential community channel” based on direct applicability and the primacy of EU law

⁵²⁴ Hasselknippe H., *Systems for Carbon Trading: An Overview*, Climate Policy, 3, 2, 2003

⁵²⁵ Balsiger J., VanDeveer D., *Navigating Regional Environmental Governance*, Global Environmental Politics, 12,3, 2012

⁵²⁶ Young O., *Institutional Interplay: the Environmental Consequences of Cross-scale Interactions* in Ostrom E. et al., *The Drama of the Commons*, Washington D.C. National Academic Press, 2002

⁵²⁷ Telo' M., Ponjaert F., *The EU's Foreign Policy. What Kind of Power and Diplomatic Action?*, The Globalisation, Europe, Multilateralism Series, Ashgate, 2013

⁵²⁸ See *IV EU Environmental Action Plan*, 1987-1992

over domestic orders⁵²⁹. As high Party to several international environmental treaties, the EU has accelerated the implementation of these international obligations within the national legal systems of the Member States through the adoption of binding acts, so favoring at the same time the harmonization and the gradual rapprochement between different national legislations among the Member States. Thus, the Union has become «a new arena»⁵³⁰ through which to implement environmental legislation arising from international obligations.

Thus, the history of the EU fundamentally proves that the regional organization can represent an interesting laboratory for environmental governance from which to start looking for innovative and realistic responses to the challenge of climate change.

9. The experience of the EU allows us to warmly welcome the emerging process of «regionalization of environmental protection»⁵³¹. As pointed out by Krämer, the supranational level is the one to prefer *by exclusion*: on the one hand, the State level proves to be inadequate and insufficient alone⁵³², on the other hand there is the global level, whose effectiveness will mostly depend on the outcome of the Paris Conference in December 2015. More generally, the progressive consolidation of regional territorial units is encouraging the formation of a «third

⁵²⁹ See Fois P., *Il diritto ambientale nell'ordinamento dell'Unione Europea*, in Cordini G., Fois P., Marchisio S., *Diritto ambientale, Profili internazionali europei e comparati*, Giappichelli, 2008

⁵³⁰ Lowe P., Ward S., *British Environment Policy and Europe. Politics and policy in transition*, Routledge, 1998

⁵³¹ See Berionni Berna E., *Regionalizing environmental protection? Towards a regional governance: the cases of the EU and of the ASEAN*, in *Rivista studi sulla sostenibilità*, Franco Angeli Ed. 2/2013

⁵³² Si veda Krämer L., *The EU: a regional model?*, in Winter G., *Multilevel Governance of Global Environmental Change, Perspectives from science, sociology and the law*, Cambridge University Press, 2006

level of governance»⁵³³, between local fragmentation and global level, «between the cosmopolitan rhetoric and power politics»⁵³⁴ now applied also to climate change as a full-fledged foreign policy's issue⁵³⁵.

10. Given all the arguments and the findings so far, the proposed conclusion of this work can be best summarized as being “***Regionalists in the short run, Universalists in the long***”. In doing this, regional-scale policy shall be conceived not as an alternative, but as parallel, «cumulative»⁵³⁶, catalytic line alongside to still existing environmental policies undertaken at national and international level. Furthermore, a regional environmental governance would also better meet the specific needs of each region of the world, each one different in economic and socio-cultural structures, more similar internally, but profoundly different from region to region. The better knowledge of regional communities towards environmental problems that mostly affect them would also improve the community capacity-building «to custom-cut the policies of mitigation more suitable for the region»⁵³⁷ compared to solutions taken at universal scale. During our work, the EU (PART I and II) Asean and Mercosur (PART III) have been practical examples of this diversity according to which every regional laboratory tends to follow different paths towards sustainability as a common goal. However, the term of *regionalization* must neither mislead nor expose what we are writing in open contradiction with the concept of uniqueness, universality and

⁵³³ Telo' M., *European Union, Regionalism, New Multilateralism: three scenarios*, in *European Union and New Regionalism*, Ashgate, 2007

⁵³⁴ *Ibidem*

⁵³⁵ Sicurelli D., *Divisi dall'ambiente, Gli Usa e l'Unione europea nelle politiche del clima e della biodiversità*, Vita e Pensiero, 2007

⁵³⁶ Conca K., *The rise of the region in global environmental politics*, *Global Environmental Politics*, 12,3, 2012

⁵³⁷ Basinger J., VanDeveer D., *Regional Governance and Environmental Problems in Denmark* R.A., *The International Studies Encyclopedia*, Wiley-Blackwell, 2010

indivisibility of the object of protection: to regionalize environmental protection doesn't mean to regionalize the environment. This would turn into an artificial legal fiction operation completely out of reality: it is impossible to fragment and compartmentalize something which by itself inherently indivisible⁵³⁸.

The proposal to regionalize environmental protection is certainly a *second-best approach*⁵³⁹. However, at the present writing it appears the best solution if the next UNFCCC Climate Conference in Paris will be not able to fulfill its expectations and to overcome the current gridlock at global level due to the divergent positions among the Parties (in particular the EU, the US, China and India) which could make the goal of global UN negotiating process extremely difficult to achieve within the time estimated as useful according to the Fifth IPCC 2013 Report.

11. In parallel, the EU proposes a third way between ecological cosmopolitanism and ecological regionalism. Such European *third way* can be Kantian or Rousseauian oriented. According to the political perspective of Rousseau as early modern French “pre-environmentalist”⁵⁴⁰, the EU would be seen as a green island, a green Fortress, a regional bunker⁵⁴¹. The entire EU environmental *acquis* would be similar to a European Social Contract which has to be protected from ecological anarchy running outside Europe. Since third States do not come all at the same time to agree on a social contract similar to the advanced European one,

⁵³⁸ See Verbruggen A., *Preparing the design of robust climate policy architectures*, Int. Environmental Agreements, 11, 2011

⁵³⁹ See Oberthür S., *Global Climate Governance after Cancun: options for EU Leadership*, The International Spectator, 46,1, 2011

⁵⁴⁰ La Freniere G., *Rousseau and the European Roots of Environmentalism*, Environmental History Review, 14, 4, 1990

⁵⁴¹ See the reference to the so-called “EU bunker phenomenon” in PART IV.

the perspective of a global agreement on climate change would be so far from being achieved. As a consequence, the EU reaction would consist of the unilateral way of closure and protectionism both in economic, political and environmental terms. On the contrary, a Kantian view of the *greening* Europe is utterly different: Europe would be not a green island, but the continent of *eco-citizenship*, here intended as specific articulation of cosmopolitanism⁵⁴². So that, it would come up an idea of Europe as a civilization open to the wider world and ready to propose a world order where contentious environmental issues are peacefully addressed, natural resources conflicts resolved through the establishment of empowered global structures of governance.

While the Rousseauian view doesn't call for the employ of communication with what is outside (the non-European world), the Kantian view would strongly require the instrument of climate diplomacy to communicate, to promote and propose or simply showcase its message of sustainable development to the rest of the world.

12. When it comes to the matter of spreading the EU message of sustainable development to the wider world through climate diplomacy, one can meet the pessimists, the optimists, the pragmatists, the idealists, the stone-wallers, the progressive realists, the progressive internationalists, the liberals or the conservatives.⁵⁴³ But there is also a further category of man: as observed by the Italian scholar Antonio Cassese in quoting the British writer Aldous Huxley, we can first draw a distinction between two categories of social scientists: *Technicians* v. *Utopians*. One category is that of the *Technicians*. They are inclined to accept too complacently the main framework of the structure whose

⁵⁴² See Dobson A., *Citizenship and the Environment*, Oxford University Press, 2003

⁵⁴³ Susskind L., *Environmental Diplomacy*, Oxford University Press, 1994

details they are trying to improve and accept things as they are, but too uncritically. The other category is made up of the *Utopians* who are too much preoccupied with what ought to be to pay any serious attention to what is. Outward reality disgusts them. Huxley was aware these two extreme mindsets were both ineffective and unhelpful to another category of scholars that he called «*Judicious Reformers*»⁵⁴⁴.

13. Here, with the intellectual effort to think and to act as *Judicious Reformers*, we are aware that there are several grounds for doubting that the future of EU Climate Diplomacy will be bright in the compelling challenge of spreading the European message of sustainable development to the outside world . However, despite all the current limits and gridlocks of the UNFCCC CoPs, global multilateral cooperation on climate change still remains of crucial importance. Again, this is because climate change is a global problem; as Gupta notes, multilateral cooperation helps «to bring together the best of global science and knowledge to address the problem and help determine global thresholds»⁵⁴⁵; then, global cooperation can also contribute to burden-share responsibilities and to allocate rights between countries in a legitimate manner, so as to promote the common good. In addition to this, global cooperation can improve the institutionalization of specific mechanisms (such as the CDM) otherwise impossible without a proper room for cooperation; finally, global multilateral cooperation provides the only possible place for countries such as the Small

⁵⁴⁴ Cassese A., *Realizing Utopia*. The future of International Law, Oxford University Press, 2012

⁵⁴⁵ Gupta J., *Climate Change and Developing Countries: From Leadership to Liability*, in Di Paola M., Pellegrino G., *Canned Heat*, Routledge, 2014

Island Developing States⁵⁴⁶ (also rather unhappily called “*Sinking States*”⁵⁴⁷) to have a voice at global UN fora. Such room for global multilateral cooperation still has a name: it is called *Climate Diplomacy*.

14. After two-decades of fascinating, if disappointing, exercise of climate diplomacy, why should it be different this time in Paris? First, the EU will have a “home court advantage” for the first time after the Copenhagen Climate Summit in 2009. Second, this time the EU will be able to learn from its previous shortcomings in Copenhagen, to incorporate timely remedial actions and to improve on its shortcomings as a climate negotiator. Indeed, when the world physically and virtually came to Copenhagen in 2009 (or “Hopenhagen” as many NGOs’ activists used to say) expecting the achievement of a global agreement to combat climate change, the COP15 provided a sobering demonstration of the European disarray⁵⁴⁸. With this regard, the Chair of the CoP15 Connie Hedegaard frankly recognized that the EU spoke with many voices and was virtually unable to negotiate. Quoting Hedegaard during her job hearing in the European Parliament in January 2010, «there are very important lessons from Copenhagen. In the last hours, China, India, Russia, Japan each spoke with one voice, while Europe spoke with many different voices. [...] A lot of Europeans in the room is not a problem, but there is only an advantage if we sing from the same hymn sheet. We need to think about this and reflect on it very seriously, or we will lose

⁵⁴⁶ See Aginam O., *Climate Change Diplomacy and Small Island Developing Countries*, in United Nations University Press 2011. See <http://unu.edu/publications/articles>. More recently, see also Agueda Corneloup, Mole A., *Small Islands Developing States and the International Climate Change negotiations: the power of a moral leadership*, *International Environmental Agreements: Politics, Law and Economics*, 14, 4, 2014

⁵⁴⁷ Harvey G., *Sinking States: Climate Change and the Pacific*, in <http://thediplomat.com/2014/05/sinking-states-climate-change-and-the-pacific>, The Diplomat, May 2014

⁵⁴⁸ Hoffmann M., *Climate Governance at the Crossroads. Experimenting with a global response after Kyoto*, Oxford University Press, 2011

our leadership role in the world [...]. The EU leaders never expected the climate talks to be easy, but expected at least to win some kudos for having unilaterally committed to binding carbon emissions reductions of 20 percent by 2020. On the final day in Copenhagen, they were shocked as they found themselves sidelined when the US, Brazil, China, India and South Africa sat down to bash out a deal - what became known as the "Copenhagen Accord" - without any European powers in the room»⁵⁴⁹.

So, on that occasion, the Union found itself marginalized and too busy into its “EU bunker” (see PART IV), while the US took over the initiative and reportedly struck a deal directly with China, India, Brazil and South Africa and a handful of other major developing countries, without any European leader present⁵⁵⁰. This dynamics has also been denounced by Anthony Giddens who has noticed that, as a consequence of the EU age-old problem that it does not speak with one voice, the Union did not deliver the very rapid decision-making that had to take place late on in the negotiations to get anything from them at all.⁵⁵¹ The Conference of Copenhagen also showed the cultural limits of a unilateral and Eurocentric understanding of “binding measures” which lack communication with other global players⁵⁵², while the directly “putting money on the table” in the form of 7.2 billion euro of fast start funding failed its original purpose to induce G77

⁵⁴⁹ See <https://euobserver.com/news/29278>

⁵⁵⁰ Oberthur S., Dupont C., *The Council, the European Council and International Climate Policy: From Symbolic Leadership to Leadership by Example*, in Connelly J., Wurzel R., *The European Union as a Leader in International Climate Change Politics*, Routledge, 2011

⁵⁵¹ Giddens A., *Big Players, a positive accord*. Policy Network, 10/01/2010

⁵⁵² Telo' M., *The EU: A Civilian Power's Diplomatic Action after the Lisbon Treaty. Bridging Internal Complexity and International Convergence*, in Telo' M., Ponjaert F., *The EU's Foreign Policy. What Kind of Power and Diplomatic Action?*, The Globalisation, Europe, Multilateralism Series, Ashgate, 2013

countries to accept a new climate agreement⁵⁵³. One of the fundamental lessons to be drawn from Copenhagen 2009 is that any future climate agreement can no longer be seen as purely EU-styled, but as the outcome of a mutual engagement between Europe and the wider non-European world, based on a mature, reliable, flexible and respectful dialogue with it. There is the possibility of a *third way* between the pure EU-styled and the merely instrumental multilateral cooperation: it deals with a compromise between the EU supranational multilateralism and the other partners' contingent, *ad hoc*, functional or even short-term types of multilateralism⁵⁵⁴. Such compromise must be realistically ambitious. It will require responsibility and pragmatism, based on the realistic awareness that we are more and more surrounded by a changing, a-symmetric, multi-polar, hotter non-European world.

⁵⁵³ Connelly J., Wurzel R., *The European Union as a leader in international climate change politics*, Routledge, 2011

⁵⁵⁴ Telo' M., *The EU: A Civilian Power's Diplomatic Action after the Lisbon Treaty. Bridging Internal Complexity and International Convergence*, in Telo' M., Ponjaert F., *The EU's Foreign Policy. What Kind of Power and Diplomatic Action?*, The Globalisation, Europe, Multilateralism Series, Ashgate, 2013

Bibliography

«Argumentum huius stomachi mei habebis quod
in his voluminibus auctorum nomina praetexui.
Est enim benignum, ut arbitror, et plenum ingenii pudoris
fateri per quos profeceris,
non ut plerique ex iis, quos attigi, fecerunt».

Plinius Secundus, *Naturalis Historia*

Acharya A., *Constructing a Security Community in Southeast Asia: ASEAN and the problem of Regional Order*, Routledge, 2001

Acharya A., *Ideas, identity, and Institution-building: From the ASEAN way to the Asia-Pacific way?*, *The Pacific Review*, 10, 3, 1997

Afionis S., *The European Union as a Negotiator in the International Climate Change Regime*, *International Environmental Agreements: Politics, Law and Economics*, 11, Springer, 2011

Agarwal, A. et al., *Global warming in an unequal world: A case of environmental colonialism*. New Delhi, Centre for Science and Environment, 2010.

Aginam O., *Climate Change Diplomacy and Small Island Developing Countries*, in United Nations University Press 2011

Agueda Corneloup, Mole A., *Small Islands Developing States and the International Climate Change negotiations: the power of a moral leadership*, *International Environmental Agreements: Politics, Law and Economics*, 14, 4, 2014

Amato G., *Il trattato di Lisbona e le prospettive per l'Europa del XXI secolo* in Bassanini F., Tiberi G., *Le nuove istituzioni europee. Commento al Trattato di Lisbona*, Quaderni di Astrid, Il Mulino, Bologna, 2010

Axelrod R., Keohane R., *Achieving cooperation under anarchy: strategies and institutions*, World Politics, 1985.

Balassa B., *The Theory of Economic Integration*, Homewood Ed., 1961

Balsiger J., VanDeveer D., *Navigating Regional Environmental Governance*, *Global Environmental Politics*, 12,3, 2012

- Barnes P., *The role of the Commission of the EU. Creating external coherence from internal diversity*, in Connelly J., Wurzel R., *The European Union as a leader in international climate change politics*, Routledge, 2011
- Barry J. et al., *Europe, Globalization and Sustainable Development*, Routledge Research, 2004
- Barry J., *Sustaining liberal democracy: ecological challenges and opportunities*, Palgrave Macmillan, 2000
- Barston R., *Modern Diplomacy*, Pearson Longman, 2006
- Basinger J., VanDeveer D., *Regional Governance and Environmental Problems* in Denemark R.A., *The International Studies Encyclopedia*, Wiley-Blackwell, 2010
- Beckwith S., Thornton J., *Environmental Law*, Thomson Sweet&Maxwell's Textbook Series, 2004
- Bell D., *Sustainability thought Democratisation? Assessing the role of Environmental NGOs in a liberal democracy*, Newcastle University Papers, 2003
- Bennett A., Checkel J., *Process Tracing in the Social Sciences: From Metaphor to Analytic Tool*, Cambridge University Press, 2014.
- Berionni Berna E., *L'integrazione nella politica ambientale e contro il cambiamento climatico*, in Telo' M., *L'integrazione regionale dell'Unione europea, Mondo e tendenze*, Atlante Geopolitico Treccani 2015, Istituto dell' Enciclopedia TRECCANI
- Berionni Berna E., *La governance sul clima nel dopo-Kyoto. Il principio di responsabilità comune ma differenziata e la sua applicazione in materia di cambiamenti climatici*, *Gazzetta Ambiente - Rivista sull'ambiente e territorio* 2/2013
- Berionni Berna E., *Regionalizing environmental protection? Towards a regional governance: the cases of the EU and of the ASEAN*, in *Rivista studi sulla sostenibilità*, Franco Angeli Ed. 2/2013
- Berionni Berna E., *Ambiente e Costituzionalismo. Il modello europeo di sviluppo sostenibile. Storia di un'incontenibile vocazione alla sconfinatezza*, *Rivista di Studi Politici "S.Pio V"*, APES, 4, 2011
- Bernauer T., Betzold C., *Civil Society in Global Environmental Governance*, *The Journal of Environment and Development*, 21, 2012
- Betsill M., *Regional Governance of Global Climate Change: The North American Commission for Environmental Cooperation*, *Global environmental Politics*, Vol. 7, 2, May 2007
- Beyers J., Trondal J., *How Nation States Hit Europe: Ambiguity and Representation in the European Union*, *West European Politics*, 27, 5, 2004
- Biancheri B., *Accordare il Mondo. La Diplomazia nell'età globale*, Laterza, 1999
- Biniat S., *Common but Differentiated Responsibility*, Remarks, 96, *American Society of International Law Proceedings*, 2002

- Birmie P., Boyle A., *International Law and the Environment*, Oxford University Press, 2009
- Blum J., *The FTAA and the Fast Track to Forgetting the Environment: A comparison of the NAFTA and the MERCOSUR Environmental Models as Examples for the Hemisphere*, Texas International Law Journal, 2000.
- Blum J., *The FTAA and the Fast Track to Forgetting the Environment: A comparison of the NAFTA and the MERCOSUR Environmental Models as Examples for the Hemisphere*, Texas International Law Journal, 2000
- Bomberg E., *Green parties and Politics in the European Union*, London Routledge, 1998
- Borregaard N. , *Evaluaciones ambientales o de sustentabilidad de políti caso acuerdos comerciales, BID, 2004*
- Bouzas R., *Regional Governance Institutions, Asymmetries, and Deeper Integration in MERCOSUR*, in Blyde, Fernandez-Arias, Giordano, Deepening Integration in MERCOSUR. Dealing with Disparities, Inter-American Development Bank, 2008
- Boyle J., *A Politics of Intellectual Property: Environmentalism for a Net?*, in Duke Law Journal, 47, 1997
- Braun M., *Europeanization of Environmental Policy in the new Europe*, Ashgate, 2014
- Breimeier H. et al., *Analyzing International Environmental Regimes – from case study to database*, MIT Press, 2006
- Bretherton C., *International Climate Change management: the future role of the EU as a global actor*, in Working Paper The Kyoto Protocol without America, European University Institute, 2002
- Bretherton C., Vogler J., *The European Union as a Global Actor*, Routledge, 2006
- Brown J. et al., *Global Environmental Politics*, Westview Press, 2013
- Buchner B., Carraro C., *Regional and sub-global climate blocs: a cost-benefit analysis of bottom-up climate regimes*, Edward Elgar Publishing, 2007.
- Burchell J., Lighfoot S., *The EU and sustainable development*, in Barry J., Europe, Globalization and Sustainable Development , Routledge Research, 2004
- Burniaux J.M., *Carbon Emissions Leakages: a general equilibrium view*, OECD Publications, 2000
- Burns C., *The European Parliament: the EU's Environmental Champion?* in Jordan A., Environmental Policy in the European Union, Earthscan, 2005
- Bustamante A., *Comparacion de politicas ambientales en la Union Europea, Comunidad Andina y MERCOSUR*. Rivista Politeia, N. 47, vol 34. Istituto de Estudios Pliticos, UCS, 2011
- Calvino I., *Il Castello dei Destini Incrociati*, Einaudi, 1973
- Canepa A., *Durban a metà*, Primo piano, La Nuova Ecologia, 1, 2012

- Caney S., *Cosmopolitan Justice, Responsibility and Global Climate Change*, Journal of International Law, 18(4), Cambridge University Press, 2006
- Caporaso J., *International Relations Theory and Multilateralism: the Search for Foundations*, International Organization, 46,3, 1992
- Carraro C., Egenhofer C., *Climate and Trade Policy: Bottom-up Approaches Towards Global Agreement*, Edward Elgar Publishing, 2007
- Carraro C., *The Economics of Coalition Formation*, in Grubb M., Gupta J., Climate Change and European Leadership: A Sustainable Role for Europe? Kluwer Academic Publishers, 2000
- Carson R., *Silent Spring*, Mariner, 1963
- Cassese A., *Realizing Utopia. The future of International Law*, Oxford University Press, 2012
- Castells M., *The Rise of the Network Society: the Information Age*, Blackwell, 1996
- Charnovitz S., *Two Centuries of Participation: NGOs and International Governance*. Michigan Journal of International Law, 18, 2, 1997
- Chasek P.S., *Earth Negotiations: Analyzing Thirty Years of Environmental Diplomacy*, UNU Press, 2001
- Christoff P., *Ecological Citizens and Ecologically guided Democracy*, in Doherty B., de Geus M., *Democracy and Green Political Thought: Sustainability, Rights and Citizenship*, Routledge, 1996
- Cientofuegos M. et al., *Mercosur y Union Europea*, Lerner Ed., 2007
- Conca K., *The rise of the region in global environmental politics*, Global Environmental Politics, 12,3, 2012
- Connelly J., Smith G., *Politics and the Environment: from Theory to Practice*, Routledge, 1999
- Connelly J., Wurzel R., *The European Union as a leader in international climate change politics*, Routledge, 2011
- Consani N., Servi A., *Mercosur y Medio Ambiente*, Revista de Relaciones Internacionales, IRI, 8, 17, 1999
- Corazza C., *EcoEuropa. Le nuove politiche per l'energia e il clima*, Egea, 2009
- Cordini G., *Profili di Diritto ambientale comparato*, in Cordini G., Fois P., Marchisio S., *Diritto ambientale, Profili internazionali europei e comparati*, Giappichelli, 2008
- Cordonier S. et al., *Prospects for Principles of International Sustainable Development Law after the WSSD: Common but Differentiated Responsibilities, Precaution and Participation*, Review of European Community and International Environmental Law, 12, 2003
- Costa O. et al., *Parliamentary Dimensions of Regionalization and Globalization. The Role of Inter-parliamentary Institutions*, Palgrave MacMillan, 2013
- Costa O., *Who decides EU foreign policy on climate change? Actors, alliances and institutions* in Harris P., *Climate Change and Foreign Policy: case studies from East to West*, Routledge, 2009

- Cotton J., *The "Haze" over Southeast Asia: Challenging the ASEAN Mode of Regional Engagement*, Pacific Affairs, 72,3, 1999
- Cross M., *Sustainable Diplomacy in the European Union* in Costantinou C., Der Derian J., Sustainable Diplomacies, Palgrave Macmillan, 2010
- Cross M., *The European Diplomatic Corps: Diplomats and International Cooperation from Westphalia to Maastricht*, Palgrave Macmillan, 2007
- Czempiel E.O., Rosenau J.N., *Governance without Government: Order and Change in World Politics*, Cambridge University Press, 1992
- Dabene O., *The Politics of Regional Integration in Latin America*, Palgrave, 2008
- De Crescenzo F., Soprano P., *Nazioni Unite e Governance internazionale dell'ambiente: la proposta europea relativa all'istituzione dell'UNEO*, Editoriale Scientifica, 2007
- De Sadeleer N., *Environmental principles: from political slogans to legal rules*, Oxford University Press, 2002
- Dean H., *Green Citizenship*, Social Policy and Administration, 35/5, 2001
- Debarbieux B., *How regional is Regional Environmental Governance?* In Global Environmental Politics, MIT Press, 12,3, 2012
- DeBardeleben J., Hurrelmann A., *Transnational Europe. Promise, Paradox, Limits*, Palgrave Macmillan, 2011
- Delanay D., Leitner H., *The Political Construction of Scale*, Political Geography 16, 2, 1997
- Delreux T., *The EU as International Environmental Negotiator*, Ashgate, 2011
- Dent M., *East Asian Regionalism*, Routledge, 2008
- Depledge J., *The Organization of Global Negotiations: Constructing The Climate Change Regime*, Earthscan, 2005
- Devia L., *La Política Ambiental en el Marco del Tratado de Asunción*, in Devia L., Mercosur y Medio Ambiente, Ediciones Ciudad Argentina, 1998
- Dewatripont M., Legros P., *The EU Competition Policy in a Global World*, in Telo' M., The European Union and Global Governance, Routledge, 2009
- Di Paola M., Pellegrino G., *Introduction: The Ethics and Politics of Climate Change: Many Themes, a Common Global Challenge*, in Di Paola M., Pellegrino G., Canned Heat, Routledge, 2014
- Dietz T., *Ecological Democracy and Sustainable Development*, Human Dimensions of Global Environmental Change Research Community Ed., 2001
- Dobson A., *Citizenship and the Environment*, Oxford University Press, 2003
- Dobson A., *Green Political Thought*, Routledge, 2000

- Dobson A., *Social inclusion, sustainability and citizenship*, Routledge Research, 2004
- Dri C., *Limits of the Institutional Mimesis of the European Union: The Case of the Mercosur Parliament*, *Latin American Policy*, 1, 1, 2010
- Drnas de Clement Z., *La clausola ambiental en el Mercosur*, AADI, 2009
- Drumbl M., *Northern Economic Obligation, Southern Moral Entitlement, and International Environmental Governance*, *Columbia Journal of Environmental Law*, 2002
- Dryzek J., Stevenson H., *Democratizing the global climate regime*, in *Interpretive Approaches to Global Climate Governance. (De)constructing the Greenhouse*, Routledge, 2013
- Dubash, N. K., *Toward a progressive Indian and global climate politics*, Centre for Policy Research, 2009
- Dunoff J.L., *Levels of Environmental Governance*, in Brunnée J., Bodansky D., Hey E., *The Oxford handbook of international environmental law*, Oxford University Press, 2007
- Duroselle J.B., *Histoire diplomatique de 1919 à nos jours*, Dalloz, 1997
- Eckersley R., *Moving forward in the Climate Negotiations: Multilateralism or Minilateralism?*, *Global Environmental Politics*, 12, 2, 2012
- Eckersley R., *Soft Law, Hard Politics and the Climate Change Treaty*, in Reus-Smit C., *The Politics of International Law*, Cambridge University Press, 2004
- EEA, *Putting Information to Work*, EEA Publication, Copenhagen, 1994
- Eliassen K., Arnesen C., *Comparison of European and Southeast Asian Integration*, in Telo' M., *European Union and New Regionalism*, Ashgate, 2007
- Elliott L., *ASEAN and environmental cooperation: norms, interests and identity*, *The Pacific Review*, 16,1, 2003
- Elliott L., *ASEAN and environmental governance: strategies of Regionalism in Southeast Asia*, *Global Environmental Politics*, 12,3, 2012
- Esain J., *Mercosur y Medio Ambiente*, *La Ley*, 11, 3, 2004
- Fabbrini S., *Contesting the Lisbon Treaty: structure and implications of the constitutional divisions within the European Union*, *European Journal of Law Reform*, 10, 4, 2008
- Farrel M. et al, *Global Politics of Regionalism. Theory and practice*, Pluto Press, 2005
- Fawcett L., *Exploring Regional Domains: a Comparative History of Regionalism*, *International Affairs*, 80, 3, 2004
- Fitoussi J.P., Laurent E., Le Cacheaux J., *The EU Environmental Strategy*, in Fitoussi J.P., Le Cacheaux J., *Report on the State of the European Union, Vol.3*, Palgrave Macmillan, 2010

Fois P., *Il diritto ambientale nell'ordinamento dell'Unione Europea*, in Cordini G., Foiss P., Marchisio S., *Diritto ambientale, Profili internazionali europei e comparati*, Giappichelli, 2008

Francisco H., *Adaptation to Climate Change: needs and opportunities in Southeast Asia*, 25,1, ASEAN Economic Bulletin 7, 2008

French D., *Developing States and International Environmental Law: The importance of differentiated responsibilities*, *International and Comparative Law Quarterly*, 49, 2000

Friman M., *Building legitimacy. Consensus and conflict over historic responsibility for climate change*, in Methmann C. et al., *Interpretive Approaches to Global Climate Governance. (De)constructing the greenhouse*, Routledge, 2013

Fujiwara N., Egenhofer C., *Do regional integration approaches hold lessons for climate change regime formation? The case of differentiated integration in Europe*, in Carraro C., Egenhofer C., *Climate and Trade Policy: Bottom-up Approaches Towards Global Agreement*, Edward Elgar Publishing, 2007

García Pelufo J., *La inserción del Mercosur al mundo globalizado* in Crawley A., *Mercosur en busca de una Nueva Agenda*, INTAL-ITD, Banco Interamericano de Desarrollo, 6, 2003

George A., Bennett A., *Case Studies and Theory Development in the Social Sciences*, MIT Press, 2005

Giddens A., *Big Players, a positive accord*, Policy Network, 10/01/2010

Giddens A., *The politics of Climate Change*, Politybooks, 2009

Gilli R.S., *Meio Ambiente en el Mercosur*, Series Grandes Eventos – Meio Ambiente, 2000

Grubb M., Gupta J., *Leadership: Theory and Methodology* in Grubb M., Gupta J., *Climate Change and European Leadership: A Sustainable Role for Europe?* Kluwer Academic Publishers, 2000

Grubb M., Yamin F., *Climate Collapse at The Hague: What happened, why and where do we go from here*, *International Affairs*, 77, 2, 2001

Grugel J., Hout W., *Regionalism across the North-South divide*, Routledge, 1999

Gstöhl S., *Patchwork Power Europe? The EU's Representation in International Institutions*, *European Foreign Affairs Review*, 14, 2009

Guha R. et al., *Varieties of Environmentalism: Essays North and South*, EarthScan, 1997

Gupta J., *Climate Change and Developing Countries: From Leadership to Liability*, in Di Paola M., Pellegrino G., *Canned Heat*, Routledge, 2014

Gupta J., *Leadership in Climate Change: Inspiring the commitment of developing countries in the post-Kyoto phase*, *Review of European Community and International Environmental Law*, 7, 2, 1998

Gupta J., *North-South Aspects of the Climate Change Issue: Towards a Constructive Negotiation Package for Developing Countries*, *Review of European and International Environmental Law*, 8, 2009

Gupta J., Ringius L., *The EU's Climate Leadership: Reconciling Ambition and Reality*, International Environmental Agreements: Politics, Law and Economics, Kluwer Academic Publishers, 1, 2001

Gupta J., *The History of Global Climate Governance*, Cambridge University Press, 2014

Haas P, Keohane R., Levy M., *Institutions for the Earth: Sources of effective international environmental protection*, MIT Press, 1993

Halvorsen A., *Common but Differentiated Commitments in the Future Climate Change Regime – Amending the Kyoto Protocol to Include Annex C and the Annex C Mitigation Fund*, Colorado Journal of International Environmental Law and Policy, 18, 2007

Hardin G., *The Tragedy of the Commons*, in Science, 162, 1968

Harris P., *Climate Change and Foreign Policy: case studies from East to West*, Routledge, 2009

Harris P., *Climate change in environmental foreign policy. Science, Diplomacy and Politics*, in Climate Change and Foreign Policy. Case studies from East to West, Routledge, 2009

Harris P., *Europe and Global Climate Change. Politics, Foreign Policy and Regional Cooperation*, E. Elgar, 2007

Harvey D., *Justice, Nature and the Geography of Difference*, Blackwell, 1996

Hasselknippe H., *Systems for Carbon Trading: An Overview*, Climate Policy, 3, 2, 2003

Held D., *Climate Change, Democracy and Global Governance: Some Questions*, in Di Paola M., Pellegrino G., *Canned Heat*, Routledge, 2014

Held D., McGrew A., *Governing Globalization: Power, Authority and Global Governance*, Polity Press, 2002

Héritier A., *Ringing the Changes*, De Gryter Ed., 1996

Héritier A., Farrel H., *Formal and Informal Institutions under Codecision: Continuous Constitution-Building in Europe*, Governance: An International Journal of Policy, Administration and Institutions, 16, 2003

Hettne B., *Interregionalism and World Order: the diverging EU and US models*, in Telo' M., European Union and New Regionalism: Ashgate, 2007

Higgott R., *Alternative models of regional cooperation? The limits of regional institutionalization in East-Asia*, in Telo M., European Union and New Regionalism, Ashgate, 2007

Hill C., *Closing the Capability-Expectations Gap*, in Peterson J., Sjursen H., A Common Foreign Policy for Europe: competing visions of the CFSP, Routledge, 1998

Hill C., *The Actors in Europe's Foreign Policy*, Routledge, 1996

Hilson C., *Greening Citizenship: Boundaries of Membership and Environment*, Journal of Environmental Law Vol.13 n.3, Oxford University Press, 2001

HL *European Union Committee 10th Report*, House of Lords, 2008

Hochstetler K., *Fading Green? Environmental Politics in the Mercosur Free Trade Agreement*, *Latin American Politics and Society*, 45, 4, 2003

Hoffmann M., *Climate Governance at the Crossroads. Experimenting with a global response after Kyoto*, Oxford University Press, 2011

Holden B., *Democracy and Global Warming*, Continuum, 2002

Holder J., *The impact of EC environmental law in the United Kingdom*, J. Wiley & Sons, 1997

Honkonen T., *The Common But Differentiated Responsibility Principle in Multilateral Environmental Agreements: Regulatory and Policy Aspects*, Kluwer Law International Publ., 2009

Hovi J., *The Persistence of the Kyoto Protocol: Why Other Annex I Countries Move On Without The United States*, *Global Environmental Politics*, 3,4,2003

IPCC Working Group, *Climate Change 2013: The Physical Science Basis*

Jamieson D., *Climate Change, Responsibility and Justice*, in Di Paola M., Pellegrino G., *Canned Heat*, Routledge, 2014.

Jananoff S., *Harmonization: the Politics of Reasoning Together*, in Bal R. and Halfman W., *The Politics of Chemical Risk*, Kluwer Academic Publishers, Dordrecht, Netherlands, 1998

Janicke M., *German Climate Change Policy. Political and Economic Leadership* in Connelly J. et al., *The European Union as a leader in international climate change politics*, Routledge, 2011

Jasanoff S. et al., *Earthly Politics – Local and Global in Environmental Governance*, MIT Press, 2004

Jimenez-Beltran D., *European Environmental Agency :Putting Information to Work*, EEA Publication, Copenhagen, 1994

Jinnah S. *Climate Change Bandwagoning: The Impacts of Strategic Linkages on Regime Design, Maintenance and Death*, *Global Environmental Politics*, 11,3 MIT, August 2011

Johnson D., *Modernization, globalization and Europeanization*, in Barry J., *Europe, Globalization and Sustainable Development*, Routledge Research, 2004

Jordan A. et al., *Climate Change Policy in the European Union. Confronting the Dilemmas of Mitigation and Adaptation?* Cambridge University Press, 2010

Jordan A., *Impact on UK Environmental Administration*, in Lowe P., Ward S., *British Environment Policy and Europe. Politics and policy in transition*, Routledge, 1998

Jordan A., *Introduction: European Union Environmental Policy-Actors, Institutions and Policy Processes* in Jordan A., *Environmental Policy in the European Union*, Earthscan Ed., 2005

Jordan A., *IPC and the evolving style and structure of environmental regulation in the UK*, *Environmental Politics*, 2,3, 1993

- Jordan A., Liefferink D., Fairbrass J., *The Europeanization of national environmental policy: A comparative analysis*, in Barry J., Europe, Globalization and Sustainable Development, Routledge Research, 2004
- Jordan A., *The Construction of a multilevel environmental governance system*, Environment and Planning C: Government and Policy 17, 1999
- Jordan A., *The Europeanization of British Environmental Policy, A Departmental Perspective*, Palgrave Ed., 2002
- Jordan A., Wurzel R., Zito A., *Policy instrument innovation in the EU*, in Multilevel Governance of Global Environmental Change, Perspectives from science, sociology and the law, Cambridge University Press, 2006
- Joshi S., *Justice, Development and India's climate politics. A postcolonial political ecology of the atmospheric commons*, Udini Ed., 2011
- Jotzo F et al., *Local causes, regional co-operation and global financing for environmental problems: the case of Southeast Asian Haze Pollution*, Int. Environmental Agreements, 8,1, 2008
- Katzenstein P., *Regionalism in Comparative Perspective, Cooperation and conflict*, 31,2, 1996,
- Kegel P. et al., *Institutions, Law and Sovereignty: a Legal Effectiveness in the Processes of Regional Integration of the European Union and the Mercosur*, Revista Brasileira de Politica Internacional, 52, 1, 2009
- Keohane R., *After the Cold War. International Institutions and State Strategies in Europe*, Harvard University Press, 1993
- Keohane R., *International Institutions: Two Approaches*, in Beck A., et al., International Rules. Approaches from International Law and International Relations, Oxford University Press, 1996
- Keohane R., Nye J., *Power and Interdependence Revisited*, International Organization, 41, 4, 1987
- Keohane R., *Reciprocity in International Relations*, International Organization, 40, 1986.
- Kernohan D., De Cian E., *Trade, the environment and climate change: multilateral versus regional agreements*, in Carraro C., Egenhofer C., Climate and Trade Policy: Bottom-up Approaches Towards Global Agreement, Edward Elgar Publ., 2007
- King D., *The Climate in Copenhagen*, Science, 326, 2009
- Klom A., *Mercosur and Brazil: a European perspective*, International Affairs, 79, 2, 2003
- Koenig-Archibugi M., *Mapping Global Governance*, in Held D., McGrew A., Governing Globalization: Power, Authority and Global Governance, Cambridge Polity Press, 2002
- König C., *The Environment in the Andean Community and Mercosur*, Comparative Regional Integration Studies, UNU-CRIS Working Papers, W-2013/3

- Krämer L., *Regional economic Integration Organizations: The European Union as an example*, in Brunnée J., Bodansky D., Hey E., *The Oxford handbook of international environmental law*, Oxford University Press, 2007
- Krämer L., *The EU: a regional model?*, in Winter G., *Multilevel Governance of Global Environmental Change, Perspectives from science, sociology and the law*, Cambridge University Press, 2006
- Krämer L., *The future Role of the ECJ in the Development of European Environmental Law*, in Hans J.H., *The European Convention and the Future of European Environmental Law*, Europa Law Publishing, 2003
- Krämer L., *Thirty years of environmental Governance in the European Union*, in Macrory R., *Reflections on 30 Years of EU Environmental Law, A high Level of Protection*, Europa Law Publishing, 2005
- Krasner S., *International regimes*, Cornell University Press, 1983
- Kutting G., Lipschutz R., *Environmental Governance, Power and knowledge in a local-global world*, Routledge, 2009
- La Freniere G., *Rousseau and the European Roots of Environmentalism*, *Environmental History Review*, 14, 4, 1990
- Laciar M., *Medio Ambiente y Desarrollo Sustentable. Los desafíos del MERCOSUR*, Ciudad Argentina, 2003
- Langenhove L., *Building regions: the regionalization of world order*, Ashgate Pub, 2011
- Langenhove L., *The EU as a global player: the politics of interregionalism*, Routledge, 2006
- Langer A., *La semplicità sostenibile* in Langer A., *Il viaggiatore leggero*, Scritti 1961-1995, Sellerio Ed., 2011
- Langhorne R., *The Diplomacy of Non-States Actors*, *Diplomacy and Statecraft*, Routledge, 16, 2005
- Lavrysen L., *European Court of Justice and Implementation of Environmental law*, in Macrory R., *Reflections on 30 Years of EU Environmental Law, A high Level of Protection*, Europa Law Publ., 2005
- Le Monde diplomatique, *L'Atlas Environnement: analyses et solutions*, Hors-série, 2007
- Lee M., *EU Environmental Law: Challenges, Change and Decision-Making*, Hart Publishing, 2005
- Lequesne C., *The European External Action Service: Can a New Institution Improve the Coherence of the EU Foreign Policy?* in Telo' M., Ponjaert F., *The EU's Foreign Policy. What Kind of Power and Diplomatic Action?*, *The Globalisation, Europe, Multilateralism Series*, Ashgate, 2013
- Lewis J., *The Janus Face of Brussels Socialization and Everyday Decision-making in the European Union*, *International Organization*, 59, 2005
- Longa Virasoro C., *Environmental Aspects of Regional Integration in MERCOSUR*, *RECIEL*, 5,1, 1996

- Lowe P., Ward S., 1998, *British Environment Policy and Europe. Politics and policy in transition*, Routledge, 1998
- Lucarelli S., Fioravanti L., *External Perceptions of the European Union as a Global Actor*, Routledge, 2010
- Lupo N., *La cooperazione interparlamentare come aspetto della governante globale*, in Telo' M., Regionalismo, Globalizzazione e governance globale, Atlante Geopolitico Treccani 2013, Istituto dell'Enciclopedia TRECCANI
- Maffettone S., *Un Mondo Migliore. Giustizia globale tra Leviatano e Cosmopoli*, Luiss University Press, 2013
- Malamud A., Gardini G., *Has regionalism peaked? The Latin American Quagmire and its Lessons*. The International Spectator, 47,1, 2012
- Malamud A., *Latin American Regionalism and EU Studies*, European Integration, 32, 6, 2010
- Malamud A., *Mercosur turns 15: Between Rising Rhetoric and Declining Achievement*, Cambridge Review of International Affairs, 18, 3, 2005
- Malamud A., *Presidential Diplomacy and the Institutional Underpinnings of Mercosur: An Empirical Examination*, Latin American Research Review, 40, 1, 2005
- Malamud A., *Presidentialism in the Southern Cone. A framework for analysis*, SPS WP, European University Institute 1, 2001
- Malamud A., Schmitter P., *The experience of European Integration and the potential for integration in South America*, Institut Barcelona d'estudies internacionals Working Papers 2007/6
- Manners I., *The Normative Ethics of the European Union*, International Affairs, 84, 1, 2008
- Marchetti R., *Civil Society, Global Governance and the Quest for Legitimacy*, in Telo' M., Globalization, Multilateralism, Europe. Towards a Better Global Governance, Ashgate, 2013
- Marchetti R., *Global democracy: for and against: ethical theory, institutional design, and social struggles*, Routledge 2008
- Marchisio S., *La responsabilità comune ma differenziata degli Stati nella promozione dello sviluppo sostenibile*, in Annali dell'Università di Ferrara, sez. v, Saggi II, 1995
- Martinez-Alier J., *The Environmentalism of the Poor: A Study of Ecological Conflicts and Valuation*, UNRISD, 2002
- Mathews F., *Ecology and Democracy*, Taylor & Francis Pub., 1996
- Mattli W., *The Logic of Regional Integration – Europe and Beyond*, Cambridge University Press, 1999

- Mayer H., *The Challenge of Coherence and Consistency in EU Foreign Policy*, in Telo' M., Ponjaert F., *The EU's Foreign Policy. What Kind of Power and Diplomatic Action?*, The Globalisation, Europe, Multilateralism Series, Ashgate, 2013
- McCormick J., *British Politics and the Environment*, WWF Earthscan Original, 1991
- McCormick J., *Environmental Policy in the European Union*. The European Series. Palgrave, 2001
- McEldowney J., McEldowney S., *Environmental Law*, Pearson Education, 2010
- Meadows D., *The Limits to Growth*. The First Report to the Club of Rome, Universe Book, New York, 1972
- Miller J. et al., *Reparations: Interdisciplinary Inquiries*, Oxford University Press, 2007
- Minuti A., *Asean e mantenimento della pace nel quadro del sistema Nazioni Unite*, in Lattanzi F., Spinedi M., *Le Organizzazioni regionali e il mantenimento della pace nella prassi di fine XX secolo*, Editoriale scientifica, 2004
- Mohan V., *Climate Change may lead India to war*, in The Times of India, 01/04/14
- Monbiot G., *Heat: How We Can Stop the Planet Burning*, Penguin Books, 2007
- Montini M., Alberton M., *La Governance Ambientale europea in transizione*, Giuffrè Ed., Università Siena, 2008
- Montini M., Alberton M., *Le novità introdotte nel Trattato di Lisbona per la tutela dell'ambiente*, in *Rivista giuridica dell'ambiente*, 2008
- Moravcsik A., *Sequencing and Path Dependence in the European Integration*, University of Notre Dame Press, 2005
- Moravcsick A., *The Choice for Europe: Social Purpose and State Power From Messina to Maastricht*, Cornell University Press, 1998
- Morgera E., *Le regole di Copenaghen*, Accordi climatici, foreste, Relazioni Nord-Sud, in *Equilibri*, XIII, n.3, Il Mulino, 2009
- Morin J., *Global Environmental Governance* in Telo' M., *Globalisation, Multilateralism, Europe. Towards a Better Global Governance*, Ashgate, 2013
- Mumma A., et al., *Designing a Global Post-Kyoto Climate Change Protocol that Advances Human Development*, *Georgetown International Environmental Law Review*, 20, 4, 2008
- Najam A., *Dynamics of the Southern Collective: Developing Countries in Desertification Negotiations*, *Global Environmental Politics*, 4,3, 2004
- Newell P., *Trade and Environmental Justice in Latin America*, *New Political Economy*, 12, 2, 2005
- Novelli M., *La evolución del Derecho Ambiental en el Mercosur: aspectos institucionales y normativos*, Universidad Nacional de Rosario, UNR, 2009

Nye J., Keohane R., *Transnational Relations and World Politics: An Introduction*, International Organization, 25, 3, 1971

Nye J., *Soft Power. The Means to Success in World Politics*, Public Affairs, 2005

Nye J., *The Powers to lead*, Oxford University Press, 2008

Oberthür S. et al., *Managing institutional complexity: regime interplay and global environmental change*, MIT Press, 2011

Oberthür S., Dupont C., *The Council, the European Council and International Climate Policy: From Symbolic Leadership to Leadership by Example*, in Connelly J., Wurzel R., *The European Union as a Leader in International Climate Change Politics*, Routledge, 2011

Oberthür S., *Global Climate Governance after Cancun: options for EU Leadership*, The International Spectator, 46,1, 2011

Oberthür S., Kelly C., *EU Leadership in International Climate Policy: Achievements and Challenges*, The International Spectator, 43, 3, 2008

Oberthür S., Ott H., *The Kyoto Protocol: International Climate Policy for the 21th century*, Springer 1999

Oberthür S., Pallemmaerts M., *The New Climate Policies of the European Union. Internal Legislation and Climate Diplomacy*, VUB Press, 2010

Oberthür S., *The role of the EU in global environmental and climate governance*, in Telo' M., *The European Union and Global Governance*, Ashgate, 2009

Ollaik L., *Mercosul Environment Group: Facts and Possibilities*, Brazilian Studies Association Papers, Atlanta, 2002

Ott, H.E., *Climate Change: An important Foreign Policy Issue*, International Affairs, 77, 2, 2001

Oye K., *Cooperation under Anarchy*. Princeton University Press, 1986

Page E. et al., *Perspectives on Justice, Democracy and Global Climate Change*, Environmental Politics, Vol.17, 4, 2008

Page E., *Climate Change, Justice and Future Generations*, Edward Elgar Publishing, 2007

Park C., *Dictionary of Environment and Conservation*, Oxford University Press, 2007

Patt A., *Effective Regional Energy Governance – not Global Environmental Governance –Is what we need right now for climate change*. Global Environmental Change, 20, 1, 2010

Pellegrino G., *Ambiente, cambiamento climatico e generazioni future*, La società degli individui, n.39, 3, 2010

Peterson J., *Decision-making in the European Union: towards a framework for analysis*, Journal of European Public Policy, 2, 1995

- Pierson P., *The Path to European Integration. A Historical Institutional Analysis*, Comparative Political Studies, 29, 2, 1996
- Poloni-Straudinger L., *Are Consensual Democracies environmentally more effective?* Environmental Politics, 17, 3, 2008
- Ponjaert F., *Inter-Regionalism as a Coherent and Intelligible Instrument in the EU Foreign Policy Toolbox: a comparative assessment*, in Telo' M., Ponjaert F., *The EU's Foreign Policy. What kind of power and diplomatic action?*, Ashgate, 2013
- Preusse H., *The New American Regionalism*, Edward Elger Publishing, 2004
- Rajamani L., *Differential Treatment in International Environmental Law*, Oxford University Press, 2006
- Rajan M., *Global Environmental Politics: India and the North South Politics of Global Environmental Issues*, OUP Ed., 1997
- Raustiala K., *States, NGOs and International Environmental Institutions*, International Studies Quarterly, 41, 1997
- Reiman K., *A View from the Top: International Politics, Norms, and the Worldwide Growth of NGOs*, International Studies Quarterly, 50, 2006
- Rhinard M., Kaeding M., *The International Bargaining Power of the European Union in "Mixed" Competence Negotiations*, Journal of Common Market Studies, 44, 5, 2006
- Ripa di Meana C., *Sorci verdi, L'ambientalismo, la politica, le lotte di potere: quattro anni da portavoce dei Verdi*, Kaos Ed., 1997
- Roberts J.T. et al., *A climate of injustice: global inequality, North-South politics and climate policy*, MIT Press, 2007
- Rosamond B. et al., *New regionalism and the European Union: dialogues, comparisons and new research directions*, Routledge, 2011
- Ruggie J., *Constructing the World Polity*, Routledge, 1998
- Saguier M., *Socio-Environmental Regionalism in South America: tensions in new development models* in Riggiozzi, P. et al., *The Rise of Post-Hegemonic Regionalism*. United Nations University Series on Regionalism, 4, 2012
- Salinas R., *Environmental Challenges Facing the MERCOSUR*, Journal of Environment and Development, 11, 3, 2002
- Sancy M., *Les principes mis en oeuvre dans le cadre du droit communautaire de l'environnement*, in I nuovi diritti nello stato sociale in trasformazione: Atti del convegno di Alessandria May 2000, CEDAM 2002
- Sands P., *Principles of International Environmental Law*, Cambridge University Press, 2003

- Sanna S., *Il sistema di preferenze generalizzate nella strategia per lo sviluppo sostenibile dell'Unione Europea*, in Fois P., *Il principio dello Sviluppo Sostenibile nel diritto internazionale ed europeo dell'Ambiente*, Editoriale Scientifica, 2007
- Santander S., *Relations internationales et regionalisme. Entre dynamiques internes et projections mondiales*, Presses Universitaires de Liège, 2012
- Sartori G., *Democrazia e Sviluppo insostenibile*, in Sartori G., *Democrazia Cosa è*, Rizzoli, 2007
- Sartori G., *Il paese degli struzzi*. Clima, ambiente, sovrappopolazione, Edizioni Ambiente, 2011
- Sartori G., *L'effetto serra delle idee confuse. Ambiente, il fiasco dei Summit*, Corriere della Sera, 08/09/02
- Sartori G., *The Theory of Democracy revisited*, Chatham House Publishers, 1987
- Sberro S., *Interregional Relations*, in Telo' M. *Globalisation, Multilateralism, Europe. Towards a Better Global Governance?*, Ashgate, 2013
- Sbragia A., *Environmental Policy*, in Wallace H., Wallace W., *Policy-making in the European Union*, Oxford University Press, 1996
- Sbraiga A., *Institution-building from below and above: the European Community in Global Environmental Politics*, in Jordan A., *Environmental Policy in the European Union: actors, institutions and processes*, Earthscan, 2002
- Shaw M. et al., *The Ashgate Research Companion to Regionalisms*, Ashgate, 2011
- Schunz S. et al., *The European Union Foreign Policy and Global Climate Change: towards a comprehensive European Climate Policy?* Institute for International and European Policy (IIEP), 12, 2009
- Schwartz J., *The impact of State capacity on enforcement of environmental policies: the case of China*, *The Journal of Environment & Development*, Sage Pub., 2003
- Sebenius J., *Negotiation Arithmetic: adding and subtracting issues and parties*, International Organization, 1983
- Sharp R., *Responding to Europeanisation. A governmental perspective*, in Lowe P., Ward S., 1998, *British Environment Policy and Europe. Politics and policy in transition*, Routledge, 1998
- Sheldon S., *Security aspects in South East Asia: Collaborative efforts and the Asean Regional Forum*, *The Pacific Review*, Routledge, 2007
- Shue H., *Global Environment and International Inequality*, in Gardiner S., et al., *Climate Ethics, Essential Readings*, Oxford University Press, 2010
- Sicurelli D., *Divisi dall'ambiente. Gli USA e l'Unione europea nelle politiche del clima e della biodiversità*, Vita&Pensiero, 2007

Söderbaum F., Sbragia A., *EU studies meets the New Regionalism: What can be gained from dialogue?*, Journal of European Integration, 32, 6, 2010

Skodvin T., Andresen S., *Leadership Revisited*, Global Environmental Politics, MIT Press, 6, 2, 2006

Stavins R., *The Problem of the Commons: Still Unsettled After 100 Years*, American Economic Review, 101, 2011

Steel B. et al., *Environmental Politics and Policy: A Comparative Approach*, McGraw-Hill Ed., 2003

Susskind L., *Environmental Diplomacy*, Oxford University Press, 1994

Telo' M., Ponjaert F., *The EU's Foreign Policy. What Kind of Power and Diplomatic Action?*, The Globalisation, Europe, Multilateralism Series, Ashgate, 2013

Telo' M., *Relations Internationales. Une perspective européenne*, IEE, Editions de L'Université de Bruxelles, 2007

Telo' M., *The European Union and global governance*, Routledge, 2009

Tolba M., Rumme-Bulska I., *Global Environmental Diplomacy. Negotiating Environmental Agreements for the World*, MIT Press, 1998

Tussie D. et al., *Regional Integration and Building Blocks: the Cases of Mercosur*, in Tussie D., The Environment and International Trade Negotiations, MacMillan Ed., 2000

Tussie D., *The Environment and International Trade Negotiations: Developing Countries Stake*, Int. Development Research Centre, 2000

Underdal A., *Causes of Negotiation Failure*, European Journal of Political Research, 11, 2, 1983

Underdal A., *Solving Collective Problems: Notes on Three Modes of Leadership in Challenges of a Changing World*, Fridtjof Nansen Institute, Lysaker, 1991

Ungaro D., *Democrazia ecologica. L'ambiente e la crisi delle istituzioni liberali*, Laterza, 2006

Valente M., *Environment - Mercosur: pragmatism governs new accord*, Environmental Bulletin, 4, 2001

Van Langenhove L., Maes L., *Comparative Regionalist Studies*, in Telo' M., Globalization, Multilateralism, Europe. Towards a Better Global Governance, Ashgate, 2013

Van Schaik L., *The Sustainability of the EU's Model for Climate Diplomacy*, in Oberthür S., et al., The New Climate Policies of the European Union, VUBPRESS 2010.

Van Schaik L., Van Hecke K., *Skating on Thin Ice: Europe's Internal Climate Policy and its Position in the World*, Working Paper Egmont Institute, 2008

Vedder H.B., *European Environmental Law after Lisbon*, Europa Law Publishing, 2012

Verbruggen A., *Preparing the design of robust climate policy architectures*, Int. Environmental Agreements, 11, 2011

Victor D., *Global warming gridlock. Creating More Effective Strategies for protecting the Planet*, Cambridge University Press, 2011

Villa A., *Per una democrazia ambientale europea*, in *Rivista per lo Sviluppo Sostenibile*, Il Mulino, 2, 2005

Villegas P., *The Environmental Challenges of the Common Market in South America: REMA under MERCOSUR*, *Golden Gate University Law Review*, 29,3, 1999

Vogler J., Stephan H., *The European Union in Global Environmental Governance: Leadership in the making?*, *International Environmental Agreements*, 7, 2007

Vogler J., *The European contribution to global environmental governance*, *International Affairs*, 81,4, 2005

Vogler J., *The European Union as a global environmental policy actor*, in Connelly J., Wurzel R., *The European Union as a leader in international climate change politics*, Routledge, 2011

Vogler J., *The External Environmental Policy of the European Union*, in Stokke O. et al., *Yearbook of International Cooperation on Environment and Development 2003/2004*, Earthscan, 2004

Wallace H., *Europeanisation and Globalisation*, *New Political Economy* 5 (3), 2000

Wallace W., *Collective Governance*, in Wallace W. et al., *Policy-making in the EU*, Oxford University Press, 2000

Warleigh-Lack A., Van Langenhove L., *Rethinking EU Studies: The Contribution of Comparative Regionalism*, *Journal of European Integration*, Routledge, 32, 6, 2010

Weale A. et al., *Environmental Governance in Europe*, Oxford University Press, 2000

Weale A., *The New Politics of Pollution*, Manchester University Press, 1996

Weibust I., *Green Leviathan, The case for a federal role in environmental policy*, Ashgate, 2009

Weisslitz M., *Rethinking the Equitable Principle of Common but Differentiated Treatment in the Climate Regime*, in *Year Book of International Environmental Law*, Oxford University Press, Vol.16, 2005

Weizsacker E. et al., *Factor Four. Doubling Wealth – Halving Resource Use*, Earthscan, 1997

Wellman D.J., *Sustainable Diplomacy. Ecology, Religion and Ethics in Muslim-Christian Relations*, Palgrave Macmillan, 2004

Wellman D.J., *The Promise of Sustainable Diplomacy: Refining the Praxis of Ecological Realism*, in Costantinou C., Der Derian J., *Sustainable Diplomacies*, Palgrave Macmillan, 2010

Wendt A., *Social Theory of International Politics*, Cambridge University Press, 1998

Winter G., *Multilevel Governance of Global Environmental Change. Perspectives from science, sociology and the law*, Cambridge University Press, 2006

- Wynne B., Waterton C., *Public Information on the Environment: the role of the European Environmental Agency*, in Lowe P., Ward S., *British Environmental Policy and Europe: Politics and Policy in Transition*, Routledge, 1998
- Yamin F., *The Role of the EU in Climate Negotiations*, in Gupta J. et al., *Climate Change and European Leadership: A Sustainable Role for Europe?*, Kluwer Academic Pub., 2000
- Young O., *Horizontal Interplay: The Politics of Institutional Linkage*, in Young O., *The Institutional Dimensions of Global Change: Fit, Interplay and Scale*, MIT Press, 2002
- Young O., *Institutional Interplay: the Environmental Consequences of Cross-scale Interactions* in Ostrom E. et al., *The Drama of the Commons*, Washington D.C. National Academic Press, 2002
- Young O., *International Cooperation: Building regimes for natural resources and the environment*, Cornell University Press, 1989
- Young O., *Political Leadership and Regime Formation: On the Development of Institutions in International Society*, *International Organization*, 45, 3, 1991
- Young R., *Governance in World Affairs*, Cornell University Press, 1999
- Zito A., *The European Union as an environmental leader in a global environment*, *Globalizations*, 2, 3, 2005
- Zwagemakers F., *The EU's Conditionality Policy: A New Strategy to Achieve Compliance*, IAI, January 2012

ANNEXES



Climate change: EU shows leadership ahead of Paris with 23% emissions cut

Brussels, 20 October 2015

Joint press release: European Commission - European Environment Agency on the "Trends and projections in Europe 2015" report



European Environment Agency



The European Union is on track towards meeting and overachieving its 2020 target for reducing greenhouse emissions by 20%, according to a report published today by the European Environment Agency (EEA).

The "Trends and projections in Europe 2015" report reveals that greenhouse gas emissions in Europe decreased by 23% between 1990 and 2014 and reached the lowest levels on record.

Latest projections by Member States show that the EU is heading for a 24% reduction by 2020 with current measures in place, and a 25% reduction with additional measures already being planned in Member States. The EU is already working towards its 2030 goal of an emissions reduction target of at least 40% –the EU's contribution towards the new global climate change agreement in Paris in December.

EU Commissioner for Climate Action and Energy Miguel Arias Cañete said: *"These results speak for themselves: Europe succeeded in cutting emissions by 23% between 1990 and 2014 while the European economy grew by 46% over the same period. We have shown consistently that climate protection and economic growth go hand in hand. This is a strong signal ahead of the Paris climate conference that Europe stands by its commitments and that our climate and energy policies work. And we have already taken the first steps towards implementing our Paris pledge with new proposals presented earlier this year."*

EEA Executive Director Hans Bruyninckx said: *"Europe's efforts to cut greenhouse gas emissions and invest in energy efficiency and renewable energy have resulted in concrete gains. Our report shows that the EU is on track towards its 2020 climate targets. The report also shows that to achieve our longer-term goals for 2030 and 2050, a fundamental change is needed in the way we produce and use energy in Europe."*

On track towards 2020 greenhouse gas target

The EEA report reveals that according to approximated ('proxy') estimates for 2014 greenhouse gas, emissions fell by 4% in 2014 compared to 2013. This was partly due to an unusually warm year, which lowered energy demand. This means the EU's domestic greenhouse gas emissions were 23% below 1990 levels in 2014.

Latest projections by Member States^[1] show the EU is heading for a 24% reduction by 2020 with current measures in place, and a 25% reduction with additional measures already being planned in Member States. The EU is therefore also on track towards its Kyoto Protocol target for the second commitment period from 2013 to 2020.

Progress towards 2030 greenhouse gas target

Reductions in greenhouse gas emissions are projected to continue beyond 2020 but at a slower pace. According to projections submitted by Member States, planned reductions are estimated to bring emissions between 27% (with current measures) and 30% (with additional measures already being planned by Member States) below 1990 levels by 2030. New policies will therefore need to be put in place to meet the 40% reduction target by 2030. As President Juncker stated in his [State of the European Union speech](#), European Commission has already taken the first legislative step towards

implementing the EU's 2030 targets with its proposal to revise the EU Emissions Trading System (ETS).

How is the EU doing with regards to its greenhouse gas emissions targets for 2020 and 2030?

Progress to targets	GHG emissions
	Emissions compared to 1990 levels
2020 targets	- 20%
2013 levels	- 19.8%
2014 levels (approximate)	- 23%
Member States' 2020 projections	- 24% to - 25%
Number of Member States 'on track'	24
Member States' 2030 projections	- 27% to - 30%

Link to EEA reports:

EEA report 04/2015 "Trends and projections in Europe 2015":

<http://www.eea.europa.eu/publications/trends-and-projections-in-europe-2015>

EEA technical report 14/2015 "Trends and projections in the EU ETS in 2015":

<http://www.eea.europa.eu/publications/trends-and-projections-eu-ets-2015/>

EEA technical report 15/2015 "Approximated EU GHG inventory: proxy GHG estimates for 2014":

<http://www.eea.europa.eu/publications/approximated-eu-ghg-inventory-2014/>

About the report and the EEA

This EEA annual report provides an updated assessment of the progress of the European Union and European countries towards their climate mitigation and energy targets.

The European Environment Agency (EEA) is an agency of the European Union. It aims to support sustainable development and to help achieve significant and measurable improvement in Europe's environment by providing timely, targeted, relevant and reliable information to policymaking agents and the public. It is supported in its work by the European environment information and observation network (Eionet), a network of 39 European countries.

For media enquiries, please contact:

Anna-Kaisa Itkonen

European Commission - Spokesperson for Climate Action and Energy

Tel: +32 (0)2 29 56186, Mobile: +32 (0)460 764 328

Email: anna-kaisa.itkonen@ec.europa.eu

Gülçin Karadeniz

European Environment Agency

Tel: +45 33 36 71 72, Mobile: +45 23 68 36 53

Email: gulcin.karadeniz@eea.europa.eu

[1] Projections were made before 2014 estimates were available

IP/15/5868

Press contacts:

[Anna-Kaisa ITKONEN](#) (+32 2 29 56186)

[Nicole BOCKSTALLER](#) (+32 2 295 25 89)

General public inquiries: [Europe Direct](#) by phone [00 800 67 89 10 11](tel:0080067891011) or by [email](#)

Attachments

[EU greenhouse gas emission trends.pdf](#)

Photos & Videos

 [2](#)

 [1](#)



Preparations for the 21th session of the Conference of the Parties (COP 21) to the United Nations Framework Convention on Climate Change (UNFCCC) and the 11th session of the Meeting of the Parties to the Kyoto Protocol (CMP 11), Paris 2015

The Council of the European Union,

1. UNDERLINES the critical importance of the 2015 Paris Conference as a historic milestone for enhancing global collective action and accelerating the global transformation to a low-carbon and climate-resilient society.

Urgency and need for global action

2. NOTES with concern the findings contained in the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC); UNDERLINES that global warming is unequivocal and that it is extremely likely that human influence has been the dominant cause of the observed warming since the mid-20th century.

3. STRESSES that, consistent with recent IPCC findings, in order to stay below 2°C, global greenhouse gas emissions need to peak by 2020 at the latest, be reduced by at least 50% by 2050 compared to 1990^[1] and be near zero or below by 2100; in this context, WELCOMES the Leaders' declaration at the G7 Summit in June 2015 and EMPHASISES that all Parties should pursue transformative pathways towards a long-term vision of global and sustainable climate neutrality and climate resilience in the second half of this century; RECALLS the EU objective, in the context of necessary reductions according to the IPCC by developed countries as a group, to reduce emissions by 80-95% by 2050 compared to 1990.

Paris outcome

4. EMPHASISES the importance of agreeing at the Paris Conference: i) an ambitious and durable legally-binding agreement under the UNFCCC ("the Paris Agreement") applicable to all Parties and addressing in a balanced and cost-effective manner mitigation, adaptation, finance, technology development and transfer, capacity building and transparency of action and support and containing ambitious nationally determined mitigation commitments; ii) a comprehensive package of decisions to enable the implementation of the Paris Agreement and to outline interim arrangements before its entry into force; and iii) a decision on enhancing global pre-2020 mitigation ambition, supported by the Lima Paris Action Agenda.

5. UNDERLINES that the Paris outcome should send a strong signal on finance in order to support poor and vulnerable countries and enable the transition to resilient, low greenhouse gas economies.

Further process in 2015

6. NOTES the considerable amount of work still ahead in order to reach the Paris outcome; CONCERNED about the lack of substantial progress on the negotiating text up to now; ENCOURAGES the co-Chairs of the Ad hoc Working Group on the Durban Platform for Enhanced Action (ADP) to prepare a revised and concise negotiating text containing the main options, on the basis of the views expressed by Parties, with a view to a fruitful early ministerial engagement before the Paris Conference.

Intended Nationally Determined Contributions (INDCs)

7. WELCOMES the submission of INDCs so far; UNDERLINES that the EU and its Member States have submitted their INDC on 6 March 2015, which is a binding target of an at least 40% domestic reduction in greenhouse gas emissions by 2030 compared to 1990; URGES all Parties which have not yet done so to come forward with fair and ambitious INDCs as soon as possible in the coming few weeks; in this context, WELCOMES opportunities for facilitative exchanges of views on the level of the aggregate effort towards the below 2°C objective, including through the forthcoming UNFCCC synthesis report and the INDC

Forum in Rabat, Morocco, on 12-13 October 2015.

Paris Agreement

8. NOTES the Commission communication "The Paris Protocol - a blueprint for tackling global climate change beyond 2020" as a contribution for articulating a vision by the EU and its Member States in view of the Paris Conference.
9. PROPOSES that the internationally legally-binding Paris Agreement:
- provide a long-term vision of the needed transformation towards low-emission and climate-resilient economies over the course of this century;
 - enable the participation of all Parties and engagement of non-state actors;
 - be in the form of a protocol in order to enshrine the strongest expression of political will and provide predictability and durability;
 - enter into force after ratification by a significant number of Parties representing a significant level of emissions so as to ensure that the Paris Agreement is truly global and effective.

Mitigation

10. PROPOSES that the Paris Agreement:
- set out a long-term global mitigation goal in line with the below 2°C objective;
 - contain fair, ambitious and quantifiable mitigation commitments by all Parties, consistent with the UNFCCC's principles applied in light of different national circumstances and evolving economic realities and capabilities;
 - provide that all Parties must have, maintain and implement such a mitigation commitment;
 - contain a dynamic five-yearly mitigation ambition mechanism in which all Parties should be required to either submit new or updated commitments, without falling behind previous levels of commitment, or resubmit the existing ones;
 - contain simplified procedures for the renewal and upward adjustment of mitigation commitments;
 - include a compliance regime which promotes timely and effective implementation;
 - provide flexibility for those countries with least capabilities.

Adaptation

11. PROPOSES that adaptation must be a central part of a balanced Paris Agreement that:
- commits all Parties to plan, prepare for and respond to the adverse impacts of climate change, to integrate adaptation into national development processes and to communicate experiences in order to achieve climate-resilient sustainable development;
 - calls on all Parties to strengthen monitoring, reporting, information-sharing and cooperation in order to increase effectiveness of adaptation actions;
 - contains an iterative and dynamic approach to continuously enhance the effectiveness of adaptation measures and their implementation;
 - contributes to assisting all countries, especially the poorest and particularly vulnerable ones, to achieve climate-resilient sustainable development;
 - underlines that both ambitious action on mitigation and adaptation, including efficient disaster risk reduction, are essential to manage and reduce the risk of adverse impacts of climate change, including addressing the risk of loss and damage.
12. RECALLS the submission by the EU and its Member States on "European Union undertakings in adaptation planning".

Use of markets

13. STRESSES that the Paris Agreement should allow for the international use of markets, subject to the application of robust common accounting rules which ensure that the environmental integrity and the integrity of the mitigation commitments are maintained and double counting is avoided; and provide for market mechanisms which promote scaled-up and cost-effective mitigation action entailing a net contribution to global mitigation efforts and contributing to sustainable development.

Finance

14. REAFFIRMS that the EU and its Member States have and remain committed to scaling up the mobilisation of climate finance in the context of meaningful mitigation actions and transparency of implementation, in order to contribute their share of the developed countries' goal to jointly mobilise USD 100 billion per year by 2020 from a wide variety of sources public and private, bilateral and multilateral, including alternative sources of finance; in this context, RECALLS its conclusions on climate finance of 7 November 2014; REITERATES its strong support for the Green Climate Fund and LOOKS FORWARD to early allocation of initial funding; UNDERLINES that the Paris Agreement's provisions on climate finance need to be dynamic and able to adapt to changing realities and needs by reflecting Parties' evolving capabilities and responsibilities; furthermore, REFERS to its forthcoming conclusions on climate finance.

Transparency and accountability

15. UNDERLINES that the Paris Agreement must provide for a robust common rules-based regime, including transparency and accountability rules applicable to all Parties, while recognising that their application will differ according to commitment types which reflect Parties' capabilities and national circumstances; STRESSES that this regime should provide for the use of common metrics, respect the most recent IPCC guidelines and build on experience gained under the UNFCCC.

16. HIGHLIGHTS that the Paris Agreement should provide for a transparent accounting and reporting framework for emissions and removals for the land-use sector for all Parties, which promote sustainable land management, building on existing relevant decisions under the UNFCCC.

Joint fulfilment

17. CONFIRMS that the EU and its Member States intend to fulfil their commitments jointly under the Paris Agreement; WELCOMES Norway's and Iceland's intention to participate in this joint fulfilment.

Other issues

18. STRESSES the importance of human rights, gender equality, a gender-sensitive approach, a just transition of the work force, decent jobs, education and awareness raising as well as ensuring food security in the context of climate action.

Implementation of the Paris Agreement

19. PROPOSES the adoption of a comprehensive package of substantive decisions, in addition to a technical work programme, at the Paris Conference to further develop rules, modalities and procedures on *inter alia*

transparency and accountability of mitigation commitments, including for the land-use sector, and on the international use of markets, to be completed by 2017, in order to enable the implementation of the Paris Agreement.

Enhancing global

pre-2020 ambition

20. REITERATES that the EU and its Member States are already applying the Doha amendment to the Kyoto Protocol; STRESSES the determination of the EU and its Member States to complete the process of ratification of the Doha amendment in the third quarter of 2015; and INVITES other Parties to do likewise in order to ensure its prompt entry into force; in this context, UNDERLINES the need for adopting at the Paris Conference the implementation rules for the second commitment period of the Kyoto Protocol as agreed in Warsaw and Lima.

21. STRESSES that all Parties need to act in order to close the pre-2020 mitigation gap; RECALLS the progress made under the ADP in identifying opportunities to enhance pre-2020 mitigation ambition in areas of high mitigation potential, in particular energy efficiency, renewable energy, REDD+, short-lived climate pollutants, upstream methane emissions, HFCs, export credits and fossil fuel subsidy reform; UNDERLINES the importance of multilateral cooperation, in particular through the Lima Paris Action Agenda, aimed at identifying and accelerating actions in these areas; in this context, STRESSES the importance of involvement of and cooperation with non-State actors; UNDERLINES the importance to continue and intensify work on enhancing pre-2020 mitigation ambition beyond the Paris Conference, and to ensure continuity in the political attention for high mitigation potential options by linking the technical examination of mitigation options with regular high-level events building on the Lima Paris Action Agenda.

22. EMPHASISES that the examination of opportunities with high mitigation potential continues to be relevant beyond 2020 and can serve as an input to the process to raise global ambition under the Paris Agreement over time.

23. RECOGNISES the need to foster the continuing implementation of existing decisions under the UNFCCC; in this context, WELCOMES the completion of the REDD+ negotiations.

Other processes

24. While noting that the Paris Agreement should address emissions across all sectors subject to regular review and that emissions accounting and reporting should remain under the UNFCCC, UNDERLINES that IMO, ICAO, and the Montreal Protocol should regulate as soon as possible in an effective manner and in line with the below 2°C objective greenhouse gas emissions from international shipping and aviation and the production and consumption of HFCs respectively.

25. WELCOMES the outcome of the Addis Ababa Conference that strengthens the framework to finance sustainable development and the means of implementation for the universal 2030 agenda for sustainable development; LOOKS FORWARD to the upcoming UN Summit that will adopt the agenda “Transforming our world: The 2030 agenda for sustainable development” in order to address the universal challenge of poverty eradication and sustainable development and that confirms the importance of tackling climate change as a key element in confronting that challenge.

[1] See for example 14790/09 (paragraph 7) and 14747/14 (paragraph 2).

Press office - General Secretariat of the Council

Rue de la Loi 175 - B-1048 BRUSSELS - Tel.: +32 (0)2 281 6319
press.office@consilium.europa.eu - www.consilium.europa.eu/press