‘NEW’ ENVIRONMENTAL POLICY INSTRUMENTS IN THE UK: POLICY INNOVATION OR ‘MUDDLING THROUGH’?

by

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ABSTRACT
The deployment of ‘new’ environmental policy instruments (NEPIs), namely market-based instruments, voluntary agreements and informational devices, in the UK has grown substantially in recent years. The aim of this paper is to assess how far these tools are ‘new’ or not set against the backdrop of pre-existing institutional forms and policy instrument types. In other words, are UK authorities actually innovating in the way they have adopted and implemented these supposedly ‘new’ tools are they simply ‘muddling through’ by adjusting only slightly the repertoire of existing tools to counter new problems and political pressures? This question is tackled in the context of three broad theories of instrument use. These suggest that the adoption of NEPIs in the UK could be: (1) an instrumental process of putting dominant policy ideas into effect (i.e. policy learning); (2) a much more contingent process, rooted in national institutional models and historical legacies; (3) ‘garbage-can’ like whereby new instruments are fitted randomly to political problems as and where political and institutional opportunities permit. The findings suggest that the UK’s institutional setting has restricted and strongly conditioned the development and functioning of voluntary agreements. Until recently, the same could be said of economic instruments, but the imminent arrival of tradable permits and various other eco-taxes is indicative of genuine innovation, which breaks decisively with the past.

ACKNOWLEDGEMENTS
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INTRODUCTION

The deployment of ‘new’ environmental policy instruments (NEPIs), namely eco-taxes and other market-based instruments (MBIs), voluntary agreements and informational devices, has grown spectacularly in Europe in recent years. Golub (1998, xiii) suggests that the eagerness to innovate is producing a “fundamental transition” in environmental policy the world over. Some estimates put the growth in use of MBIs in OECD countries at over 50 per cent between 1987 and 1994 (Ekins, 1999, 39). Voluntary agreements, too, are becoming more popular. In 1997, the EEA (1997) put the total in the EU 15 at around 300, with more and more being signed each year.

The reasons for the increasing popularity of NEPIs range from dissatisfaction with the effectiveness of traditional regulatory instruments, through to concerns about competitiveness and the desire for greater local-level control – i.e. subsidiarity. The appearance of new policy instruments is, of course, not an entirely new phenomenon. As long ago as the 1950s, Dahl and Lindblom (1953, 8) described it as “perhaps the greatest political revolution of our times” (emphasis added). Yet, we know surprisingly little about what might be termed the comparative politics of instrument use (Howlett and Ramesh, 1993). That is “why [do] some instruments appear in the repertoire of some [political] systems and not others” (Anderson, 1971, 122)? Anderson (ibid., 122) suggests that each state has its own ‘policy repertoire’, which is distinct from the broader, international repertoire of potentially applicable policy instruments. This observations raises two intriguing questions about the UK’s use of NEPIs. The first is to what extent does the recent proliferation of NEPIs in the UK constitute a ‘revolution’, that is (according to the New Oxford Dictionary) “a period… of significant change or radical alteration of a particular condition, or state of affairs”? In particular, is the way that UK authorities have chosen to deployed NEPIs genuinely ‘new’, that significantly different from what has gone before? Or are they simply “muddling through” new problems (Lindblom, 1959) by making
slight adjustments to the existing repertoire of tools? Second, how far does the overall pattern of NEPI use in and across the EU 15 depart from national policy repertoires?

In this paper, I will mainly address the first of these dimensions (i.e. innovation and/or muddling through) in the context of the UK’s performance, as a necessary step towards addressing the second (i.e. convergence and/or divergence), which is the centrepiece of a much larger comparative project (Jordan et al., 2001). Currently, the literature on policy instruments in general and NEPIs in particular does not directly confront either of these questions. It is overwhelmingly concerned with classifying them into different categories, advocating one particular type of instrument or describing their use in distinct national settings. It still has not directly addressed the question of why states appear to choose to adopt some policy instruments and not others. Do they borrow or transfer ‘successful’ tools from other countries or is most innovation indigenously driven? It is also worth remembering that just because two countries adopt the same instruments does not necessarily imply that they implement them in the same manner. Christopher Hood (1986, 106) highlights the distorting effect of national implementing structures on the apparent extent of innovation/convergence-divergence.

The remainder of this particular paper proceeds as follows. By way of background, Part Two briefly describes the current distribution of NEPIs in Europe. Given obvious space constraints, I have chosen to concentrate on the two most common types, that is MBIs and voluntary or ‘negotiated’ agreements (VAs). Part Three describes the traditional features of UK policy before identifying the political pressures that lie behind the contemporary shift to NEPIs. Part Four describes three different theoretical approaches to understanding the interplay of national traditions and political pressures. These make very different predictions about how countries select between different instruments. At the risk of oversimplifying, the first regards the selection process as being highly instrumental, in which shifts in ideas and interests (i.e. policy
learning) are prominent. The second emphasises the importance of deeply rooted national institutional characteristics and historical legacies which give rise distinctive and highly enduring ‘national repertoires’ (Bennett, 1988, 439). The third posits a ‘garbage-can’ selection process through which new instruments are fitted very randomly to political problems as and where circumstances permit. Part Five outlines the traditional institutional-political characteristics of UK environmental policy in terms of the content, style and instruments of national policy. Part Six uses these theories as prisms to view the current uptake of MBIs and VAs in the UK. The list of NEPIs adopted is by no means an exhaustive one. Rather, the aim is to examine how they are being applied and to gauge the extent to which they depart from traditional elements of UK policy. In other words, do they actually deserve the label ‘new’? Is the UK actually doing ‘new’ things or is it simply amending existing approaches to reflect changing circumstances and political demands? Then we might be in a better position to determine whether there is a steady, secular convergence in the use of NEPIs across Europe, or if national differences persist? The final section draws the threads of the paper together and speculates about the future.

**NEPIs: HISTORICAL AND CROSS-NATIONAL TRENDS**

*Voluntary agreements*

The distinction between VAs, MBIs and traditional (i.e. regulatory) tools is explained in Figure 1. That there is no commonly agreed definition of the term ‘voluntary agreement’ strongly suggests that the extent of convergence is probably quite low – each country has its own culturally framed definition. In some circles the term ‘voluntary’ is used interchangeably with ‘environmental’. Other commonly used terms are ‘codes of conduct’, ‘covenants’ or ‘negotiated agreements’. The EEA defines them as “covering only those commitments undertaken by firms and sector associations, which are the result of negotiations with public authorities and/or explicitly recognised by the authorities” (EEA, 1997, 11). The EU Commission adopts a much
inclusive definition: “agreements between industry and public authorities on the achievement of environmental objectives” (CEC, 1996, 5).

FIGURE 1: A TYPOLOGY OF NEPIs

<table>
<thead>
<tr>
<th>Regulator specifies HOW GOAL is to be achieved</th>
<th>Regulator SPECIFIES the GOAL to be achieved</th>
<th>Regulator does NOT SPECIFY the GOAL to be achieved</th>
</tr>
</thead>
<tbody>
<tr>
<td>Command and control</td>
<td>Technology-based standards</td>
<td></td>
</tr>
<tr>
<td>Most standard setting + most negotiated agreements</td>
<td>Most market based instrument + public information</td>
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I therefore rely on a typology developed by Börkey and Lévèque (1998), which differentiates between different types of voluntary agreement. These are: unilateral commitments, public voluntary schemes, and negotiated agreements. **Unilateral commitments** consist of environmental improvement programmes instigated by companies themselves (or by industry organisations). In contrast, **public voluntary schemes** are established by public bodies that define certain performance criteria and other conditions of membership. Individual companies are free to decide whether or not to join. Finally, **negotiated agreements** are more formal “contracts” between industry and public authorities aimed at addressing particular environmental problems. They may be legally binding.

A survey undertaken by the European Commission in 1996 reported over 300 VAs in the EU. Every Member State has now adopted some form of VA but the majority are to be found in the Netherlands and Germany, which together account for well over two thirds of the VAs surveyed (CEC, 1996; EEA, 1997). Generally speaking, Germany, France and the Netherlands were the
first to adopt VAs, but nowadays they are a common feature of most national environmental policy systems in Europe (ELNI, 1998; CEC, 1996; UBA, 1999; Öko-Institut, 1998; UNEP, 1998). They come in many shapes and sizes, varying in terms of their ‘bindingness’ (i.e. legally non-binding through to legally binding covenants) and the way in which they have been arrived at (i.e. unilaterally by business, unilaterally by government led negotiations, or through a negotiation process involving multiple stakeholders). Overall, the most popular type of VA within the EU 15 is the negotiated agreement (OECD, 1999).

If we look at how the agreements are actually applied there are also important cross-national differences. In the Netherlands, they almost always take the form of legally binding agreements - or ‘covenant’ (Mol et al. 2000) while in Germany they are often negotiated ‘in the shadow of the law.’ In the UK, VAs are much less common (OECD, 1994, 113) and those that do exist are usually non-binding and very flexible in form (Jordan and Salmons, 2000).

**Market based instruments**

It is common in economic accounts of environmental problems to underline the extent to which regulation by means of MBIs is more economically efficient and effective than regulation by administrative rules. Other putative benefits include greater flexibility and transparency. MBIs are instruments which “affect estimates of costs of alternative actions open to economic agents” (OECD, 1994, 17). The OECD distinguishes between four main types of MBI: charges and taxes; subsidies; tradable emission permits; deposit-refund schemes (see: OECD (1998, 7-9) for a more extensive taxonomy). The total number of MBIs used in OECD countries has grown steadily since the early seventies, as has the range which now extends from subsidies through to emission charges and tradable permits (OECD, 1998).
The historical diffusion of MBIs has followed the same pattern as VAs, with a group of pioneers and a set of followers. Japan adopted one of the first MBIs (an environmental tax on sulphur dioxide emissions) in 1974. The Nordic countries, the Netherlands and France soon followed with taxes on water and air pollution. Germany adopted a wastewater levy in the mid-1970s, but this was not fully implemented until the early 1980s. The UK and Italy did not initiate national environmental taxes until the early 1990s (OECD, 1995). In a 1996 survey, the EEA (1997) portrayed the UK as a fairly circumspect observer of events in other countries rather than an innovator or a pioneer in the use of MBIs (see also: OECD (1994, 110-112)). More recently the UK has begun to pioneer the use of various highly innovative MBIs including waste taxes and (drawing upon US experience) tradable permits. In general, the ‘followers’ are beginning to catch up with the initial pioneers as MBIs are more widely applied across Europe (EEA, 2001). However, the gap between Northern and Southern European countries persists and on some criteria may even be growing (CEC, 2000).

UK ENVIRONMENTAL POLICY

The UK’s traditional policy setting can be divided into three main parts: policy content, policy style and administrative structure. Following Hall (1993), policy content can be further divided into three different levels or parts. The first relates to the precise setting of policy instruments. The second is the instruments or techniques themselves, while the third comprises the overall goals that guide policy. These goals operate within a policy paradigm or a framework of ideas and standards that specifies not only the goals of policy and the kind of instruments that can be used to attain them, but also the very nature of the problems they are meant to be addressing. Policy style describes the manner in which environmental policy decisions are made. The most common, but fairly rough categorisation of policy style is the one offered by Richardson et al. (1982) which distinguishes between consensual vs. conflictual and reactive vs. proactive. Finally, administrative structures are those bureaucratic and procedural arrangements (e.g.
government departments, coordinating mechanisms, sub-national implementing agencies) that states establish to either make and/or implement policy.

Generally speaking, voluntarism, discretion and practicability might be described as the dominant motifs of British environmental policy (Weale, 1997). As new problems have emerged and became important, new laws are enacted and new agencies put in place. The approach is (or was, as changes are now underfoot – see below) predominantly reactive rather than anticipatory, tactical rather than strategic, pragmatic rather than ambitious, and case-by-case rather than uniform. This has produced a somewhat jumbled mixture of organisations, principles and legal tools.

Policy content

It is actually quite difficult to identify an overall philosophy or paradigm of UK policy other than that pollution should be *optimised* (by limiting its effects in the environment) rather than reduced at source (Weale *et al.* 2000, 177). The underlying idea is that standards should be “reasonably practicable” i.e. tailored to reflect local conditions and circumstances, the economic costs of abatement and the current state of technical knowledge. This approach is assumed to be more effective and more economically efficient than forcing all polluters to attain the same (i.e. harmonised) statutory standards. In the past this gradual, contextually focused approach was proudly defended by the scientific and political establishment in the UK which took great “pride” in the efficacy of the ‘British approach’ (Hajer, 1995). In terms of *policy tools*, whereas continental European states and the EU have generally preferred fixed legislative standards and deadlines to ensure comparability of effort and to simplify the process of monitoring and enforcement. Britain, meanwhile, has tended to prefer voluntary agreements with polluters, general guidelines, informal standards and flexible implementation systems, which can be tailored to suit political and financial exigencies. More often than not, British standards have
been expressed as informal objectives with rather quaint titles such as “presumptive limits”. These were really administrative devices, not fixed standards enshrined in legislation. Thus drinking water had to be “wholesome”, emissions to air “harmless and inoffensive” (although only where practicable) and so on. Central government’s role was restricted to setting the legislative or policy framework, leaving the detailed aspects of policy fine-tuning and implementation to local officials. Generally speaking, informal agreements were preferred to regulation, but even this only ever set a broad framework.

Policy style

The traditional style of policy in the UK has tended to be informal, reactive, gradualist and accommodative. Great emphasis has always been placed on consultation and negotiation, rather than imposition and confrontation (Weale et al. 2000, 180). In operational terms, regulation proceeded on the basis of courteous negotiation between polluters and regulators operating in exclusive policy communities of experts (or what Weale et al., (2000, 181) term ‘club government’. According to one environment Minister, legislation was regarded as a backstop “when other methods [had] failed” (Waldegrave, 1985, 106). As Vogel (1986, 77) revealed in his comparison of British and US practice, regulators preferred not to set standards with which compliance could not be guaranteed (the philosophy of ‘practicability’). In practice regulators tended to adopt the standards and approaches preferred by those they were supposed to be regulating.

The prevailing structures of environmental policy reflect the style and the underlying philosophy of action. Therefore in the past the responsibility for determining the precise setting of individual instruments was normally devolved to front line officials. Decentralised implementation was consistent with the contextual philosophy, which could not have been applied by bureaucrats working at desks in London, Cardiff or Edinburgh. In the 1990s these
local agencies were gradually brigaded into a national Environment Agency in order to deliver more cost-effective regulation. The Agency inherited a legacy of regulatory control from its predecessors but is now beginning to explore the potential of NEPIs (Pearce et al., 2000).

Summary

Policy elites were immensely ‘proud’ of these arrangements (Hajer, 1995). A guide to national policy produced by the environment ministry in the late 1970s concluded that the UK was “at an advanced stage in the development and adoption of environmental protection policies” (DoE, 1978, 1). In reality environmental imperatives were (and in large part still are) subservient to the (perceived) need to address the country’s long-term economic and industrial decline as a world power. In spite of its long history of environmental concern, the UK has never been a particular green Member State. In the 1980s it managed to acquire a not entirely undeserved reputation for being the Dirty Man of Europe, although its contemporary performance is considerably better.

Be that as it may, what is most striking about the UK’s inherited structures and policy ideas is (at least on paper) how highly conducive they are to the use of VAs with industry. Depending on how one defines a VA the UK could even be said to have pioneered the use of the voluntary or negotiated approach to addressing environmental problems. However, traditional British VAs are mostly: informal (i.e. non-legal); secretive; locally implemented; highly flexible. On the other hand, MBIs set centrally by central government are completely alien to the guiding precepts and organising structures of UK policy.

CONTEMPORARY POLITICAL DEMANDS FOR NEPIs

Since the 1980s, British environmental policy has undergone a slow by profound change which has gradually produced a much more ‘Europeanised’ system of control. There is a greater willingness to innovate with environmental instruments, more openness and formality in
management matters, and greater recourse to legal action by the courts. Source-based legal controls are more common; the locus of control has shifted from ‘front line’ regulators to officials at higher levels, who try to adopt a more integrated view of problems; regulation is much more open and independent; the style of policy is much more formal and ‘arms length’.

The reasons for this shift are many and varied (Jordan, 1998):

- **The Europeanisation of national environmental policy**: the EU has forced the UK to adapt its approach to reflect continental axioms of control. The interaction with foreign systems has also led to cross-national learning, through which countries now increasingly borrow concepts, tools and ideas from one another. So far, the top down pressure from the EU to adopt VAs and MBIs has been relatively diffuse, mainly because the UK has succeeded in clinging to the veto over tax matters in the Environment Council. The EU’s legalistic approach to policy making has also helped to crowd out the use of VAs at the EU level (e.g. the Auto-Oil programme);

- **The steady politicisation of environmental issues**: environment is no longer seen as a purely technical matter of ‘low’ politics. The public profile of regulation is higher than it was and there are widespread demands for greater transparency. The old, highly informal regulatory approach of old has come under fire from those seeking greater openness. Yet UK environmental groups have resisted environmental taxes on moral and philosophical grounds, and remain deeply suspicious of VAs with industry. Many would sympathise with the IPPR’s argument that “there is [still] a shortage of any instruments of environmental protection, fiscal or regulatory” in the UK (Tindale and Holtham, 1996, 22).

- **New ways of thinking**: UK policy makers now recognise the need to move beyond regulation to address the sources of environmental change (sustainability). Business increasingly recognises the economic benefits of higher environmental standards
(ecological modernisation). The argument that environmental protection cannot be left to the state but must involve private actors (shared responsibility) is now widely accepted and understood;

The increasing popularity of new tools such as MBIs and VAs is a reflection of a number of more specific factors:

- A growing appreciation of the *limitations of regulatory action* as a means of achieving sustainability. In the 1990s politicians began to search for other means to intervene in the economy and society;
- Strong trends both in Britain and the EU towards *deregulating government* activity. MBIs and VAs are often regarded as more flexible and more cost-effective means than the somewhat blunt ‘stick’ of regulation.
- *Economic conditions*: the economic recession of the 1990s helped to fuel the search for more flexible and cost-effective policy tools;
- *A growing cultural receptivity to new ideas*: political interest has began to grow in how economic instruments (e.g. the 1989 ‘Pearce report’) and tools, such as VAs, are used in and by other countries (i.e. policy transfer/learning). The OECD and the EEA actively disseminate good practice at the European level, but the UK has always been at the forefront of the academic study of economic instruments (e.g. Pearce, Beckerman etc.). In the UK, NGOs such as the Green Alliance and the IPPR (among others) have sought to improve the environmental effectiveness of policy by advocating new tools, but Greenpeace and FoE have always been much more circumspect;
- *Search for new revenue sources*: it is often said that the British like continental European standards of welfare provision but American rates of taxation. In the recent past (i.e. the
1990s) the taxing the environment provided politicians with a relatively uncontentious source of new revenue with which to overcome this mismatch.

- **Political ideology**: NEPIs fitted the liberal, market-led beliefs of the governing Conservative party in the 1990s. In the mid 1990s the government announced a ‘general presumption’ in favour of environmental taxes and adopted some continental European style VAs (see below). More recently, NEPIs also fit new Labour’s Third Way philosophy rather better than state-imposed regulation.

- **International pressures**: the EU and the UN may not have directly imposed new tools on the UK, but they have accelerated the adoption of ambitious commitments in areas such as climate change, urban air quality and acidification. These have encouraged the domestic political system in the UK to investigate various options for achieving compliance, including (particularly in respect of climate change) MBIs. In other words they have provided an external impetus to innovate without specifying the precise instruments to use.

**THEORIES OF INSTRUMENT SELECTION AND IMPLEMENTATION**

Having set out the historical context of environmental policy in the UK and identified a number of contemporary political and economic demands for new instruments, this section examines the interaction between the two. What factors are likely to influence the choice between different types of policy instrument, and how is that choice likely to be affected by a particular country’s institutional and political characteristics? There are three different streams of political theory which directly or indirectly address this question. Importantly, they make very different predictions about the outcome of the selection process and the intervening influence of endogenous factors (e.g. a country’s institutional make-up and distinctive policy style) in shaping the form in which they are arrived at. For the sake of convenience I term these ‘ideas
dominant’, ‘settings dominant’ and ‘chaos dominant’ to emphasize their distinctive characteristics (see Figure 2).

FIGURE 2: THREE THEORIES OF POLICY INSTRUMENT SELECTION AND APPLICATION

<table>
<thead>
<tr>
<th></th>
<th>‘Ideas’ dominant</th>
<th>‘Settings’ dominant</th>
<th>‘Chaos’ dominant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Themes</td>
<td>Instrument choice driven by the conflict between competing ideas</td>
<td>National institutions condition the selection and implementation processes</td>
<td>Instruments look for policies; policies look for instruments</td>
</tr>
<tr>
<td>Role of instruments</td>
<td>Mainly instrumental: implement dominant ideas</td>
<td>Embedded in institutional contexts/settings</td>
<td>Search process is ad hoc (what appears to work)</td>
</tr>
<tr>
<td>Key agents of policy transfer</td>
<td>Epistemic communities/ advocacy coalitions</td>
<td>Actors operating within institutional structures</td>
<td>Pluralistic mix of different actors</td>
</tr>
<tr>
<td>Search process</td>
<td>Rational and goal directed</td>
<td>Path dependent (to achieve a ‘goodness of fit’)</td>
<td>Chaotic and highly pluralistic</td>
</tr>
<tr>
<td>Innovation-muddling through?</td>
<td>Potentially high if ideas are influential</td>
<td>Generally small (path dependency/increasing returns)</td>
<td>Unclear a priori: context dependent?</td>
</tr>
<tr>
<td>Convergence-divergence?</td>
<td>Convergence (if ideas are accepted)</td>
<td>Divergence dominant</td>
<td>Unclear a priori: context dependent?</td>
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‘Ideas dominant’ approaches

Ideas are a dominant in this body of literature: they drive the search for new instruments. For example, Rose (1993) suggests that the selection process will often involve scanning instruments in other countries and evaluating the likely impact of such programmes at home. Policy change is therefore first and foremost a cognitive struggle between different groups to improve their understanding of the causes of policy problems or the suitability of particular instruments as
solutions (Hall, 1993, 278). Expert networks perform a vital function in this respect by gathering and deploying knowledge about how well instruments have performed in the past and how they might perform in the future. According to these theories policy instruments play an instrumental role in the policy process. Normally, existing instruments are simply recalibrated to reflect changing circumstances and political demands, but occasionally sudden, an unforeseen (external) event will completely de-stabilise a policy area, triggering a frantic search for new instruments and explanatory frameworks (paradigms).

Two very popular examples in this canon are Hall’s study of social learning and Sabatier’s Advocacy Coalition Framework (ACF). Hall (1993, 292) argues that policy making occurs within the context of a particular set of ideas “that recognise some social interests as more legitimate than others and privilege some lines of policy over others.” At any point in time, one set of ideas (a policy paradigm) prevails. This is “a framework of ideas and standards that specifies not only the goals of policy and the kind of instruments that can be used to attain them, but also the very nature of the problems they are meant to be addressing” (emphasis added). For Hall, policy change can occur at three distinct levels: (1) the precise calibrations of policy instruments (first order); (2) the particular techniques or policy instruments employed to provide policy solutions (second order); (3) the overarching goals that guide policy making (third order). Shifts in the first two levels occur regularly and incrementally and are associated with ‘normal’ policy making. Under these conditions, responses to changing environmental circumstances are selected from established repertories (i.e. muddling through). A paradigm shift of seismic proportions is required to knock them from well-trodden paths, altering the underlying goals of a policy area (third order change). Such shifts take place periodically as new problems emerge, and anomalous or ‘unexplainable’ events accumulate. Faced with new challenges the existing paradigm cannot satisfactorily handle, policy makers begin searching for alternative explanations and turn to new sources of advice. The widening debate eventually spills over into the public
sphere, drawing in a much broader array of pressure groups, journalists, intellectuals and academic analysts, who compete to alter the prevailing policy discourse.

Policy change can occur at all three levels. But, crucially, first and second order changes do not automatically result in third order change, which is only brought about by evolving societal debate and reflection - social learning - regarding the overall direction of policy. Over time, supporters of the new paradigm become entrenched in bureaucratic structures and alter the instruments to reflect their ideas.

Sabatier’s (1998) advocacy coalition framework (ACF) conceives of the policy process in terms of discrete subsystems. Within each subsystem are advocacy coalitions (ACs) comprising actors with similar core beliefs or values. The ACF divides beliefs into three hierarchical layers reflecting a decreasing resistance to change. Deep core beliefs define an individual’s basic philosophy and are immune to empirical challenges. Near (policy) core beliefs relate to fundamental value priorities surrounding the policy area, such as perceptions of causation and strategies for realising deep core values. Finally, there is an outer band of secondary elements, which prescribe how policies should be implemented (i.e. the choice of instruments).

At any one time, there is likely to be a dominant coalition which sets the intellectual framework (a paradigm?) within which individual policy decisions are made, and defines a series of minority coalitions. The struggle between these coalitions provides the primary motor of policy change. For ACs, learning is an instrumental process of achieving a priori beliefs. While changes at the secondary level emerge incrementally as different coalitions engage in a cognitive struggle, changes in the core aspects of a policy require an exogenous ‘shock’ outside the subsystem.
In both these accounts, ideas play a dominant role whereas institutional factors and questions of implementation are downplayed. Accordingly, they would account for the (seemingly) wholesale switch to NEPIs in Europe in terms of networks of ideas and expertise. One possible explanation might be the emergence of a transnational community of experts imbued with a strong belief in the superiority of NEPIs as against traditional, regulatory policy instruments. However, ideas dominant theories say little about what happens afterwards i.e. when the ideas are implemented in different national contexts. Do countries adopt the same set of new tools in one revolutionary wave or do they adjust what they already have to make it look as if they are implementing the new paradigm (i.e. muddle through)? This gap arises because the theories are primarily theories of agenda setting and policy selection, not implementation. A second possibility is that actors apply NEPIs more strongly and uniformly in those countries where the coalition is dominant and more sporadically where it is not. Finally, ideas dominant theories assume that policy makers are fairly unencumbered by institutional constraints and rationally oriented in their objectives. They do not, for example, cling to particular types of instrument because they ‘appear’ to work well or are supported by a particularly powerful constituency of interests (i.e. policy drives instrument choice, not the other way round). By and large the selection process is regarded as instrumental i.e. if a particular instrument implements an idea it is adopted and put to work. To conclude, ideas dominant approaches allow for sudden bursts of innovation in instrument us, but if and only if advocates manage to colonise key institutional niches.

‘Settings dominant’ theories

These theories assume that the choice of instruments is shaped by the historical-institutional context in which the act of selection takes place. This view characterises many of the ‘new’ institutional theories of politics, especially the historical and sociological variants. March and Olsen (1998, 948) define an ‘institution’ as “a relatively stable collection of practices and rules
defining appropriate behaviour for specific groups of actors in specific situations.” National institutions would include a repertoire of policy instruments. The fact that these provide appropriate solutions to national problems gives them an institutional embeddedness, which is hard to dislodge unless the instrument in question is manifestly dysfunctional. Over the course of time actors invest substantial time and resources adapting to particular policies and tools, locking them in place (Pierson, 1993; 2000). Even then any ensuing institutional change is likely to be incremental and path dependent (i.e. shaped by what has already accumulated). Path dependence manifest itself when:

“a government program or organisation embarks upon a path and there is an inertial tendency for those initial policy choices to persist. The path may be altered, but it requires a good deal of political pressure to produce that change” (Peters, 1999, 63).

Actor preferences are derived endogenously on the basis of what is appropriate (i.e. politically acceptable and can be implemented on the ground) in a given institutional context. More often than not, they try to satisfice (i.e. muddle through) within pre-existing institutional constraints rather than design new solution afresh.

The settings dominant approach suggests that institutions form and adapt slowly, in the process investing in certain norms, values and cultures. When these norms and procedures become institutionalised they are not changed easily unless there are sudden, external shocks. “Revolutionary policy learning” (Kitschelt, 1991) is therefore extremely rare. In the environmental sphere typical triggers are sudden ecological catastrophe or a spectacular policy failure. However, when confronted with such challenges actors first refine what they have before searching for novel approaches. The tendency to cling to existing policy instruments that appear to work rather than innovate with new ones ensures that institutions endure long after
they cease to be optimal (‘competency traps’) (March and Olsen, 1989, 53-67). In other words, institutions are ‘sticky’ in that they persist beyond the historical moment and condition of their original design (‘the stickiness of adaptation’) (Ibid., 1989, 169). This arises because societies invest time and resources in adapting to tools, locking them in place. Economists argue that the increasing returns reaped from remaining with regulation may make a decisive shift to NEPIs highly unattractive to all those (including regulators and the regulated) involved in the regulatory process (Arthur, 1994, 112). If we add in the bureaucratic costs of establishing, setting, reviewing and re-tuning NEPIs, the incentive to innovate can actually be very low indeed. To conclude, in contrast to the ideas dominant approach, institutions powerfully refract external political pressures for change in ways that perpetuate existing arrangements. Thus the implementation of a common set of ideas on NEPIs is likely to produce “widely divergent outcomes in societies with different institutional arrangements” (North, 1990, 101).

The prevailing literature is replete with examples of national institutions shaping the adoption and implementation of policy tools. For example, Waltman (1987, 269) identifies the importance of “policy inheritance” (the way past policy was made) in maintaining divergent patterns of policy adoption. The filtering effect of national institutions is apparent at the agenda setting stage and persists right through to implementation. Majone (1991), for example, suggests that policy makers normally select between instruments according to their administrative feasibility - i.e. ‘can it be implemented back home?’ Bennett (1988) and Harmsen (1999) highlight the powerful impact of “domestic constraints” in hindering policy convergence, manifesting themselves as *inter alia* ‘policy legacies’, ‘foreordained instruments’ and entrenched resistance from bureaucracies. Similar concepts appear in the environmental policy literature including ‘institutional fit’ (Knill, 1998) and ‘institutional design’ (Aguilar Fernández, 1994). Linder and Peters (1989, 49-50) identify national policy style as an important determinant of policy instrument choice. Thus countries with a statist tradition such as Germany might be
expected to employ more intrusive instruments such as regulation than those with a more consensual history.

What predictions does this literature make the distribution of NEPIs in Europe? The first and most obvious point is that instruments will change only very slowly. The most oft-cited barriers to innovation are often broadly ‘institutional’, namely bureaucratic resistance, complexity (the difficulty of fitting them in alongside existing instruments) and political inertia (see: Hanley et al., 1990; Keohane et al., 1998). Second, instruments that work with the grain of national institutions are more likely to be adopted than those that work against them. The EEA’s (1997, 39) analysis of VAs in Europe does indeed confirm that national administrative structure decisively affects instrument selection (compare the UK and Netherlands – see above). Third, the structuring/filtering effect of national institutions may only become fully apparent after studying the transfer of policy instruments through into the implementation stage. If ‘discordant’ instruments are adopted (i.e. ones which do not fit national institutional legacies) they will be eroded during the implementation phase to achieve a better goodness of fit. To conclude, settings dominant approaches predict fairly low levels of innovation unless and until there are sudden exogenous shocks to the system. Generally, the overall pattern of instrument will be fairly heterogeneous, reflecting the resilience and longevity of national institutional traditions.

‘Chaos dominant’ approaches

The ‘chaos dominant’ approach draws its inspiration from Cohen et al.’s (1972) seminal article on decision making in ‘anarchic’ organisations. They argue that organisations have three characteristics, which make them inherently unstable:

- **Problematic preferences**: preferences are often inconsistent and ill-defined. Actors ‘discover preferences through action more than [they] act… on the basis of preferences’;
- **Unclear technology**: although the organisation appears to prosper none of its members are entirely sure why. It ‘muddles through’ problems, looking for solutions on the basis of trial and error;

- **Fluid participation**: participants vary in the amount of time they can devote to different problems. Attention spans are short and the pressure to find a solution is often overwhelming.

Consequently, we often find ideas looking for instruments and instruments looking for decisional situations in which to be advanced (Cohen et al., 1972, 3). At any one time there are four interacting streams: a stream of choices (ideas); a stream of problems; a stream of solutions; a stream of decision-making attention. The way these interact is fairly random and chaotic, hence the label ‘garbage can’. The system’s capacity for effective problem solving is not very great, but it does enable choices to be made when goals are unclear, external demands are ambiguous, problems are poorly understood and “decision-makers… have other things on their minds” (Cohen et al., 1972, 16).

Kingdon (1984) has re-shaped Cohen et al.’s model into a general theory of policy making. While primarily focused on understanding the source of issues that reach the political agenda, his model also includes aspects of decision-making and policy implementation. He divides the policy process into three streams:

- A stream of *problems* requiring attention.
- A stream of *policies*. These are the myriad solutions (including instruments) to problems, floating around in policy communities waiting for someone to advocate them.
- An independent stream of *politics*: the political competition between parties, pressure groups and politicians for votes and resources shapes how problems and policies are
interpreted. To be acceptable a policy must first satisfy certain criteria, e.g. it must be effective and be consistent with the values of the relevant policy community.

Normally, the three streams run simultaneously rather than seriatim. However, periodically, they interconnect and are coupled in a single package (problem; proposal; political receptivity) labelled a ‘policy windows’ (Kingdon, 1984, Chapter 8). These arise when: (1) there is a compelling problem (a problem window); (2) there is something compelling in the political stream (a political window). When a window opens a policy solution can move through it and onto the agenda. However, successful advocates must move extremely quickly as windows rarely stay open for long and there are always other solutions waiting in the wings. Crucially, agendas are not, therefore, just a reflection of power but also depend on luck. This creates the possibility of major policy discontinuities. Importantly, unlike the other two theories, in Kingdon’s model:

‘Events do not proceed neatly in stages, steps or phases... participants do not first identify problems and then seek solution for them; indeed advocacy of solutions often precedes the highlighting of problems to which they become attached. Agenda are not first set and then alternatives generated, instead, alternatives much first be advocated for a long period before a short run opportunity presents itself on the agenda. Events do not necessarily proceed in a similar order in several different case studies; instead things may happen separately in each case, and become coupled at critical points’ (Kingdon, 1984, 215).

However, the process is not entirely devoid of rationality. For example, there are elements of the ‘ideas dominant’ approach in the model e.g. advocates of particular policy instruments must ‘soften up’ policy communities using assiduous persuasion if they want to get their ideas
accepted. Officials must evaluate and puzzle, argue, marshal evidence and persuade sceptics as they encounter ideas and proposals (Ibid., 131-2).

Wolman (1992) found that Kingdon’s model fitted quite well the circumstances surrounding the transfer of US urban policies to the UK. He claims that the search process was based mainly on what was perceived to work well, rather than an in-depth analysis of its actual performance. The selection process was unsystematic, truncated and highly contingent (Ibid., 42). One of the key problems with Kingdon’s model is that it does not seek to explain the variations in policy across sectors and countries. The other obvious problem is that it overlooks the potentially distorting effect of institutions at the implementation stage. Generally it implies that NEPIs would be fitted fairly randomly to political problems as and where circumstances permit, producing a very uneven pattern across different sectors and countries. While the ideas approach and the settings approach focus on an ideation and an institutional context respectively, the Kingdon approach expects a much more fluid context to influence events. At any one time, there would be advocates of particular NEPIs looking for the right ‘problem’ to lift them through a window and onto the agenda. There would also be a whole host of problems looking for instruments. The fitting together of the two would depend on the vagaries of electoral and pressure group politics in each of the selected countries. The next section looks at how the UK has actually responded to the growing popularity of NEPIs through these three theoretical prisms.

**VOLUNTARY AGREEMENTS IN THE UK**

By the 1990s the UK Government’s attitude towards VAs had shifted to being ‘cautiously positive’. In the 1994 sustainable development strategy, it opined that:

“Self-regulation by business may be an effective course of action, complementing legislation. By entering into [negotiated] agreements or covenants... individual sectors
would have greater control over the implementation of agreed environmental targets.... Some other countries have pioneered this approach but before it could be adopted in the UK, further work would be needed on the scope of such agreements and how they could be negotiated, implemented and enforced.”

In principle, industry is also broadly committed to voluntary approaches. However, when it comes to discussing the detailed content of VAs, views diverge somewhat. Some economic sectors have warmly embraced them whereas others have flatly opposed them. As might be expected, there has been more enthusiasm for negotiated agreements when industry is facing the prospect of an alternative instrument such as a tax, than when it is not! The Confederation of British Industry (CBI) is concerned that VAs: are open to defection (the free-rider problem); impose an “unfair” burden on larger firms; are potentially unworkable given the relatively low coverage of trade associations capable of representing a particular sector (ENDS, 1995). In some areas industry speaks with a plurality of voices. For example some associations have argue in favour of some legislative backstop to tackle the free-rider problem; others have flatly rejected VAs fearing they will be used as a Trojan horse for implementing legislation (e.g. the Air Conditioning and Refrigeration Industry) (Jordan, 1998).

**Indigenous voluntary agreements**

So what kinds of VAs have been adopted in the UK? Although voluntarism has been one of the dominant motifs of UK policy for well over a century (see above), the agreements that governments brokered with private actors were very different to the VAs now found in pioneer countries such as the Netherlands or Denmark. In effect most were little more than informal ‘gentleman’s agreements’ or non-justiciable codes of good conduct. Two examples give a flavour of how they operated (Box 1).
The Pesticides Safety Precautions Scheme (PSPS)

Established in 1957, this was the first example of a VA in the UK and covered the various uses of pesticide. The main aim of the agreement, which was non-statutory, was to safeguard human health and the environment. Under the PSPS those proposing to introduce, import or use new types of pesticide were supposed to undertake safety tests and submit the findings to independent scrutiny. The scheme was criticised by the Royal Commission (1979) for not doing enough to limit the use of pesticides. In its reply (some four years later) the Government announced some changes in response to these criticisms, but refused to formalise the PSBS. More forceful critics denounced the Scheme as a:

“‘gentleman’s agreement’ between the agrochemical industry and government... Under the [scheme] key committees [were]... bound by the Official Secrets Act. Experts who were invited... to discuss the impact of a new insecticide... were muzzled... the industry was well represented on the PSPS (indeed it was a source of almost all the data)... whereas workers’ organisations were relegated to relatively powerless advisory panels. Even expert... groups such as the [RSPB], which employed leading researchers, were excluded. It was hardly surprising that if industry got the benefit of the doubt, and it took longer to restrict or ban a pesticide in the UK than in more openly governed countries” (Rose, 1990, 236).

The PSBS remained in force until 1986 when, following a legal challenge from the European Commission (on the grounds that it breached free trade rules), it was replaced by a statutory pesticides registration scheme under the Food and Environment Protection Act 1985.
Controls on CFC use

Britain reacted to the threat of ozone depletion with typical caution and circumspection. Instead of legislating, the Government asked the chemical industry and users to help one another search for alternatives and report back on measures taken to reduce leakages and consumption. In 1980, the EU placed a cap on CFC production and called for reduction in aerosol use. The British government achieved these with plenty of room to spare, and praised an unwritten agreement with users and producers. In fact, the production cap was set well above existing levels of production - thereby leaving ample room for expansion - and aerosol use was already in decline in the Community because of technical and economic changes. According to one critic (Benedick, 1991, 25), these were “painless moves, fully supported by... industry, that gave an appearance of control while in reality permitting continued expansion.” In the 1980s, consumption rocketed as new uses were found for CFCs. Binding controls were only applied in 1988 when the EU adopted a Regulation to implement the Montreal protocol (Jordan, 1998).

Contemporary voluntary agreements

Using the criteria outlined above (and depending who you believe!) there are somewhere between ten and twenty VAs in the UK (c.f. Börkey and Lévèque, 1998; EEA, 1997; ELNI, 1998, 59-60; CEC, 1996, 30). Of these, about a dozen are unilateral commitments or public voluntary schemes (see Figure 3). In comparison to the Netherlands and Germany, negotiated agreements are relatively unpopular in the UK (Börkey and Lévèque, 1998, 15). The majority are unofficial, self-assessed and non-legally binding. Many are more akin to codes of best practice than formally negotiated agreements between the state and industry. A minority stem from international pressure/requirements (ISO 14000; EMAS).
FIGURE 3: UK VAS: UNILATERAL COMMITMENTS AND PUBLIC VOLUNTARY SCHEMES

<table>
<thead>
<tr>
<th>Unilateral Commitments</th>
<th>Public Voluntary Schemes</th>
</tr>
</thead>
<tbody>
<tr>
<td>• TOVALOP and CRISTAL</td>
<td>• EMAS / ISO 14001</td>
</tr>
<tr>
<td>• Responsible Care</td>
<td>• Making a Corporate Commitment</td>
</tr>
<tr>
<td>• CFCs and HCFCs</td>
<td></td>
</tr>
<tr>
<td>• “Green Fee” scheme for used tyres</td>
<td></td>
</tr>
<tr>
<td>• Environment Business Forum</td>
<td></td>
</tr>
<tr>
<td>• 1995 Plus Group</td>
<td></td>
</tr>
</tbody>
</table>

Source: Jordan and Salmons (2000)

There are also a dozen or so negotiated agreements. Of these, nine were identified in the COWI report for DG III (CEC (1997)). Four relate to climate change, three to water pollution, two to waste management, and two to health and safety (Figure 4).

FIGURE 4: UK VAS: NEGOTIATED AGREEMENTS

<table>
<thead>
<tr>
<th>Name</th>
<th>Period of operation</th>
<th>Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pesticides Safety Precautions Scheme</td>
<td>1957 - 1986</td>
<td>Health and safety</td>
</tr>
<tr>
<td>APEs (domestic fabric washing products)</td>
<td>1972 - 1978</td>
<td>Water pollution</td>
</tr>
<tr>
<td>NTA (domestic fabric washing products)</td>
<td>1975 -</td>
<td>Water pollution</td>
</tr>
<tr>
<td>“BASIS” (pesticides handling)</td>
<td>1978 -</td>
<td>Health and safety</td>
</tr>
<tr>
<td>Recycled content of newsprint</td>
<td>1991 -</td>
<td>Waste management</td>
</tr>
</tbody>
</table>
Farm Films Recovery Scheme (FFSR)  1995 - 1997  Waste management
APEs (industrial washing products)  1995 -  Water pollution
HFCs (aerosol industry)  1996 -  Climate change
HFCs and PFCs (fire industry)  1996 -  Climate change
HFCs (foams industry)  1996 -  Climate change
Energy efficiency (chemical industry)  1997 -  Climate change

Source: Jordan and Salmons (2000)

Most of these agreements have some official status (i.e. they have been negotiated in partnership with or deposited with a government body. Some are also formally reviewed by governmental bodies. However only a select few have some formal legislative status (e.g. BASIS). Some of the schemes have been moderately successful but others have failed miserably (e.g. the newsprint VA) and at least one (the FFSR) has collapsed, triggering demands for statutory intervention (Salmons, 2000). In other areas (e.g. washing products), industry associations have requested the Government to intervene to overcome potential free-rider problems by prohibiting the use of some pollutants. Finally, some of the agreements (e.g. HFCs and PFCs) have been heavily criticised for setting unambitious targets and thus doing little more than codify best practice. The closest thing to a ‘model’ VA in the UK is the energy efficiency agreement with the chemical industry. This agreement, which was brokered between the DETR and the Chemical Industries Association (CIA) in 1997, aims to reduce the chemical industries’ specific energy consumption (i.e. energy consumption per unit output) by 20% of its 1990 level by the year 2005 as a part of the UK’s climate change strategy. The agreement is externally verified and there are opportunities to update it in the light of new information. However, like most other UK VAs, it is not legally binding on either party and there is no mechanism - other than peer pressure - to ensure that it sticks. He agreement appears to be operating well though doubts persist over the adequacy of the target given the tightening international climate change regime (Jordan and Salmons, 2000). Many suspect that it was really just a ploy used by the CIA to resist
a carbon tax (Salmons, 2001). Starting in 1999, these agreements will be gradually superseded by Climate Change Levy (CCL) Agreements (CCLAs) (see below), which will allow firms within certain economic sectors to obtain an 80% reduction on the Climate Change Levy. The aim is to conclude 40 or so CCLA’s before the CCL takes effect on 1 April 2001. Each CCLA will run for 10 years and be reviewed every second year. If a sector fails to meet its targets it will lose its CCL discount for 2 years, though this can be regained if performance subsequently improves.

**MBIs IN THE UK**

The UK can legitimately claim to have adopted one of the very first environmental taxes in the world when, in 1909, Lloyd George introduced a tax on petrol (Tindale and Holtham, 1996, 22). However, since then progress has been extremely fitful, even though British economists have been at the forefront of the academic study of MBIs. Policy elites have traditionally viewed eco-taxes with a mixture of suspicion and hostility. Many had grown up with regulation and were well versed in the art of using it to ‘muddle through’ problems. In 1972, the Royal Commission on Environmental Pollution (RCEP) looked at how pioneers such as the USA were using MBIs and concluded that:

“We are not convinced that a system of charges would be so effective as consents... [which] if properly policed, would guarantee a level of [environmental] quality.... The administration of a system of charges would need an expertise... which we do not believe exists at present.... [The] Government should forthwith examine the case for adopting [MBIs]; but we do not believe that the case... is already so well established as to justify... a switch from consents to [MBIs] as the main device for controlling pollution” (RCEP, 1972, 67-8).
A British environment Minister once claimed that “[I]ndustry in Britain has always opposed the concept of a general charging system whereby charges are imposed”*. He continued:

“The rationale behind [British] policy... is based on a three-part premise of practicability, confirmed expert advice and pragmatism. We must make absolutely certain that we do not compromise on these objectives by favouring the next popular theory that comes along” (HL Hansard, Vol. 444, 5th Series, 14-11-83, cols. 1110-1112).

Consequently Britain stood aloof when continental European countries and the US began experimenting with NEPIs in the 1970s.

The publication of the ‘Pearce report’ (which was commissioned by the DoE), in 1989 secured huge media interest in environmental taxes. A whole annex of the environment White Paper published the following year explored the potential for applying them in the UK. In an update published in 1992, the Conservatives went a step further and declared “a new presumption in favour of economic instruments rather than regulation” (H.M. Govt., 1992). Shortly afterwards it published a major review of the main policy options (DoE, 1993), although similar proposals had circulated in Whitehall since the 1970s. It explained that MBIs were part of the “next stage of [environmental] policy, with existing [legal] control remaining in place as a safety net” (DoE, 1993, 23).

Politically speaking the DoE was committed to implementing MBIs from the early 1990s, yet today they are still conspicuous by their absence from most areas policy. The most well known are outlined in Figure 3. According to Helm (1998, 11) the vast majority are “implicit economic instruments” i.e. primarily designed to raise revenue rather than protect the environment (i.e. they are not based on an externality assessment).
FIGURE 5: MBIS IN THE UK

UK MBIs

A tax differential introduced to encourage the use of unleaded petrol. Having mostly done its work, it will be removed by 2001 and replaced with a statutory ban.

**Fuel duty escalator** (1993-)
This automatic annual increase in road fuel tax was introduced by the Conservatives to raise revenue. It was raised by subsequent Chancellors but adjusted in 2000 to pacify petrol tax protestors and encourage low sulphur diesel.

**Vehicle excise taxes**
Lower taxes for smaller vehicles and cleaner lorries were introduced by Labour in 1999. Subsequently extended in 2000 to cover a larger number of less polluting small cars. Tax concessions for company cars progressively removed during the 1990s. Fundamental review of company car taxation promised in 2002-3.

**VAT on fuel** (1993-)
Raised by the Conservatives to 8% but a further increase to the higher level of 17.5% was hastily abandoned in the teeth of widespread concerns about ‘fuel poverty’. In 2000 Labour announced that VAT on energy saving devices (including solar technology) would be reduced to the EU minimum of 5%.

**Packing recycling notes**
Designed by Volpak to demonstrate compliance with the producer responsibility scheme (see above). It qualifies as a MBI on the grounds that the notes can be traded between parties (i.e. those who over comply can sell permits to those that under comply). Intended to promote recycling, but its long outcomes are questionable.

Over the years taxes and charges have been proposed for a whole range of different sectors and substances including sulphur emissions, water use and water quality, CFCs and aggregates. However, in spite of growing pressure from within the DoE’s economics unit, the vast majority have foundered. The inertial factors are relatively well known (Hanley *et al.*, 1990; Tindale and Hewitt, 1998; Pearce *et al.*, 2000). In addition to well known design problems (calculating the externality, predicting the effect, they include *inter alia*:
Concerted opposition from business (Tindale and Hewitt, 1998, 11): the philosophy of ecological modernisation is still weakly rooted in Britain. British firms have generally regarded any form of environmental protection (economic or regulatory) as an extraneous constraint to be resisted.

The density of regulatory policies: many sectors are already heavily regulated (e.g. water) and there is an obvious unwillingness among politicians and bureaucrats to tamper with it. European regulatory requirements have on occasions reduced the scope for introducing new instruments (see Sorrell (1998) for an illuminating account of how this thwarted plans to introduce sulphur trading).

Lack of a strong advocacy coalition: environmental groups have traditionally mistrusted MBIs because they do not morally stigmatise pollution as much as regulation does. Pearce et al. (2000, 34) conjectures that although most UK environmental economists support the use of MBIs, there are no “think tank” institutions (akin, say, to RFF or WRI in the USA) that advocate them in policy circles.

Opposition from cognate government departments: in the past the Treasury has always flatly opposed the principle of hypothecation. It doubted whether the efficiency gains from MBIs are enough to offset the administrative costs. The agriculture and trade departments resisted the introduction of any new environmental tools almost as matter of principle. Finally the DoE has not (until recently) been that committed to strong environmental policies, being an amalgam of local taxation and housing responsibilities than a genuinely environmental department.

Societal lock in: not only bureaucrats but also polluters have an intimate knowledge of how regulation operates (see above).

Weak European pressure: lacking the necessary competence, the EU has been unable to exert the same level of pressure on the UK as it has to achieve a significant Europeanisation of national regulatory policies.
The growing public unpopularity of indirect taxes: indirect (or ‘stealth’ taxes are almost as hotly contested today as direct taxes were in the 1980s. No longer are they a soft and easy revenue stream. This means that new MBIs will: (1) have to be seen to publicly penalise the producer of the economic ‘bad’ in question; (2) the losers from such an action should be no worse off that they would otherwise have been. Designing instruments that satisfy both these requirements is becoming ever more difficult.

However, the arrival of a new Labour government with (relatively) ambitious environmental policies has added fresh impetus to the domestic debate about MBIs. By the end of its term in office (1997-2001) a number of innovative proposals for new MBIs were poised to be or had been introduced (see Box 2). In Opposition, Labour’s shifted its policy to incorporate NEPIs such as MBIs. Left of centre think tanks such as the IPPR and (under the Directorship of the green economist Michael Jacobs) the Fabian Society played a particularly influential role in re-working Labour’s stance on NEPIs so it fitted with the principles of ecological modernisation. One IPPR fellow (Stephen Tindale) was hired as a special adviser to the DoE. Within weeks of entering power he engineered an IPPR seminar on NEPIs which involved several key Ministers. These initiatives soon bore fruit when, a few months later, the Treasury (i.e. not the DoE!) issued a ‘statement of intent’ on environmental tax reform, that is a gradual switch from taxing economic ‘goods’ such as employment, savings and investments, to ‘bads’ such as pollution, but this fell short of the comprehensive plan for adopting specific MBIs demanded by the IPPR a few years earlier. ENDS report (ENDS, 1999) described the 1999 budget as “indisputably the greenest yet.” As well as strengthening a number of existing measures, it contained concrete plans for new taxes on pesticides and aggregates.

FIGURE 6: NEW LABOUR, NEW INSTRUMENTS?

NEW LABOUR, NEW INSTRUMENTS?

The Landfill Tax (1996-)
Announced and then implemented by the Conservatives 1996, the LFT marked the UK’s deepest foray into the world of green taxes thus far. It aims to ‘push’ more material up the waste hierarchy i.e. to increase recycling and waste reduction. Strictly speaking, the revenues are not hypothecated. However some of the revenue is used to finance environmental measures through an Environmental Body Tax Credit Scheme overseen by ENTRUST, an independent, private sector organisation. Another quantum is used to offset the cost of labour through a 0.2% reduction in the National Insurance (NI) contributions paid by all employers. It is still the only environmental tax to be based on a valuation study.

The Climate Change Levy (April 2001-)
Announced in the March 1999 budget following the 1998 Marshall report. Following opposition from industry, the DETR announced a 80% discount for companies in highly energy extensive sectors that sign up to CCLA’s – basically sector-level VAs with the DETR (see above). The title is somewhat of a misnomer as it is really directed at the downstream use of energy rather than reducing the carbon intensity of energy use per se. Like the landfill tax, some of the revenues will be offset against employers NIC’s. Around £150m will also be channelled into a fund for energy efficiency measures. Otherwise the CCL is expected to raise £1billion p.a. It seems unlikely that the tax as it is currently conceived will deliver the emission savings needed to fulfil the UK’s climate targets, so industry is bracing itself for future hikes. But as Helm (1998) explains, there as been plenty of ‘muddling through’ in the design process. He concludes: “the confusion of objectives (protecting [the coal industry], supporting non-fossil fuels, maintaining the competitiveness of large industrial firms, and avoiding tax increases on households) and the multiple existing interventions makes the design of [new MBIs] a complex matter”.

An Aggregates Tax (2005-)
The of levying a tax on the production of virgin aggregates idea was first mooted in 1998 but the idea really began to achieve political momentum in 1999. The Quarry Products Association attempted to resist a tax by proposing a VA but the DETR regarded this as insufficiently ambitious. The Department is currently consulting on the idea of a levy plus a sustainability fund, while the industry continues to fight for a VA

The Emissions Trading Scheme (2002-)
The idea of a trading scheme was first mooted by a government (Marshall) report on options for limiting the business use of energy, but it was quickly taken up by the two main industry associations (ACBE and the CBI) as a means of lightening the pain of the CCL. Several potential participants (e.g. BP) already have their own in house schemes, and the powerful London money market is known to be keen on the idea (it has designs on becoming the
international trading body under the Kyoto Protocol). Industry created an Energy Trading Group covering major industrial sectors, which proposed that a trading scheme be established in 2001. Many important issues still need to be resolved (e.g. the relationship between an ETS, the CCL and associated CCLAs), but the scheme looks highly likely to go ahead. However the enormous complexity of the whole exercise means it is unlikely to be fully operational until 2008. In August 2000, the DETR announced that £30million will be available as a financial incentive for firms to join the scheme.

These initiatives are undoubtedly innovative though the driving forces are many and varied (see above). However, new Labour struggles to be innovative in every aspect of instrument design and adoption. In spite of growing enthusiasm in parts of Whitehall (e.g. the Treasury and the DTI) that were previously unconvinced of the merits of MBIs, there is still a rich ‘unpolitics’ of instrument use in the UK. For example, well-developed plans to introduce charging schemes relating to water quality and water abstraction are in abeyance. Plans for sulphur trading were proposed and then dropped when they conflicted with regulatory requirements (Sorrell, 1999). Tradable permits for waste have also been mooted by the DETR as a means to achieve targets set by the EU landfill targets but planning is proceeding extremely slowly. Finally, in the spring of 200 Blair intervened to postpone a tax on pesticides in order to placate farming groups. The DETR is currently discussing the possibility of a VA with relevant industry associations.

CONCLUSIONS

To conclude, there are far fewer VAs in the UK than other European countries of a comparable size and environmental performance (EEA, 1997). Those that have been agreed are generally: concentrated in a much narrower range of sub-sectors (agriculture, chemicals, energy) than the EU average (EEA, 1997); non-binding (ELNI, 1998, 61); of relatively recent origin (ELNI, 1998, 59); unilaterally volunteered by industry rather than negotiated as part of binding, long term commitment. In some respects this situation is in keeping with the UK’s historically poor level of environmental performance. The UK is a centrally controlled unitary state, but one
might have expected to find more VAs in a sector such as environmental policy with such a strong historical tradition of decentralisation, consensus building and negotiation with industry (c.f. EEA, 1997, 39).

Until very recently, the story with respect to MBIs was much the same. The idea of adopting MBIs centrally at the central government level was completely alien to the founding precepts of UK policy, that is pragmatism, legalism, secrecy, decentralism and informality. The institutional barriers could have been overcome if the political pressure to change had been there, but it was not. The small amount of institutionally constrained space available was used by the Treasury to implement ‘implicit’ taxes that had more to do with raising revenue than protecting the environment.

Today, the situation is in danger of flipping too far the other way, with several innovations (the CCL, CCLA and the ETS) vying with one another. Whereas before there was a dearth of NEPIs there is now a “policy glut” (Palmer and Vass, 2000). In the last decade, the political pressure to innovate has grown to the point where it is now unstoppable. New Labour’s programme of tax reform may be somewhat belated compared to other EU states, but it undeniably marks a decisive break with the traditional elements of UK policy. However, powerful institutional barriers continue to steer the whole process down a series of fairly narrow paths. It is telling that rather than try and achieve too much too quickly, the DETR has decided to concentrate on a small number of key pollutants that lie mainly outside the ambit of existing regulation. So far, the political appetite for deregulating old instruments and replacing them with NEPIs has been decidedly weak. Some have even argued that even in those areas where Labour has innovated, it has work within pre-existing policy commitments and socially embedded instruments. The overall pattern is somewhat muddled and confused (Helm, 1998, 12).
So, how well do these findings relate back to the three theoretical positions outlined in Section Four? Recall that ‘ideas dominant’ approaches imply that actors look for instruments to implement their ideas. When certain instruments fail to work properly or if new ideas emerge and become dominant, the repertoire of instruments is adjusted accordingly. The ‘settings dominant’ approach suggests that instruments and the institutional contexts in which they are embedded, adapt slowly and imperfectly to political demands. This is because the instruments are deeply rooted and, while not impervious to change, have the ability to perpetuate themselves. The ‘chaos dominant’ approaches are equally concerned with how instruments fit within a context, but argue that the process and context are less predictable. Actors with the best ideas may not win out as a persuasive actor/group seizing on the right opportunity may radically reshape a country’s tool kit.

On one level, the picture painted by settings dominant theories ties in much more closely to the UK situation than that offered by the other two approaches. There is simply far too much continuity in the UK’s response to NEPIs than either the ideas dominant or chaos dominant approaches can satisfactorily explain. Over the course of time, path dependent processes have conditioned the choice of tools. For almost all actors, increasing returns reaped from remaining with regulation outweighed the putative benefits of alternative tools and so the overall level of innovation was low. When challenged, they clung to traditional tools (competency traps) even when the ideological climate of the time was deregulatory and only very weakly environmental. Contra ‘ideas dominant’ approaches the selection process was from dispassionate and instrumental.

Moreover the institutional ‘stickiness’ of traditional patterns of policy style, policy content and administration means that today’s instruments still bear the imprint of traditional policy repertoires. Thus UK VAs are looser, less legally binding and smaller in number than their
continental cousins; UK MBIs end to be ‘implicit’ rather than real. In other words, the NEPIs that we find in the UK bear the hallmarks of ‘traditionally’ British legislation, though a clearer picture must await more detailed comparative analysis (e.g. the Netherlands has many VAs but these work with the grain of traditional policy systems and styles i.e. the extent of innovation is actually quite low). Clear and unambiguous instances of innovation in the UK are hard to find. Where governments have innovated it has generally followed the grain of existing policy traditions or, as in the case of ‘implicit taxes’, left them largely untouched.

So, game, set and match to institutional theories? Not quite. First, they struggle to account for the convulsive shift, which appears to be engulfing British policy at present, other than as a lagged response to some external crisis of crises. The external drivers (e.g. new environmental problems such as climate change which challenge traditional policy paradigms) have been important, but they offer an insufficient explanation for the direction in which the innovative burst is taking. Ideas dominant theories point to the emergence of an advocacy coalition or community of actors favouring NEPIs. In the late 1990s they successfully distilled the findings of numerous OECD, EEA and national academic reports and presented them to Ministers. Tindale and Jacobs in particular used their institutional niches within government to make a convincing case for reform which has since been enthusiastically endorsed by industry. The coalition supporting MBIs in the UK has always been stronger than that supporting VAs, hence a greater degree of innovation. The problem here is that one is still left with the problem of explaining why such a coalitions (or coalitions) found it difficult to insinuate their ideas into UK policy when the prevailing political ideology was laissez faire, whereas their opposite numbers in other countries thrived. These differences have a lot to do with the enduring pattern of national institutional opportunities and constraints across Europe.
Second, were the obstacles to – or mediators of - innovation entirely institutional? Almost certainly not. The UK’s circumspect reaction to NEPIs also has a great deal to do with ‘old fashioned’ political factors, specifically the weakness of environmental political parties and pressure groups, the political power of the Treasury vis-à-vis the environment department and UK industry’s suspicion of ecological modernist arguments. But again, political factors may have been important but they still do not really explain the consistency with which the UK clung to existing practices when its neighbours were busy innovating.

Finally, the settings dominant approach leaves little room for conscious human agency. Many of the NEPIs adopted in the mid to late 1990s (specifically the ground-breaking landfill tax) owe their existence to the determination and skill of then environment minister, John Gummer. Like the political entrepreneurs in Kingdon’s model, he correctly identified a policy window and stepped through it. He used a variety of external factors (European pressure; growing environmental awareness) attached them to political instruments (eco-taxation) that had been floating around the DoE for decades looking for the right problem, and resisted Treasury pressure. Convincing as it may be, this argument does not really explain the UK’s deep, historical antipathy to NEPIs, the stickiness of national policy repertoires and styles (namely the tendency to ‘muddle through’ with existing instruments) or the path dependent effect of inherited institutional forms.

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