

The Europeanization of Policy Transfer:
The EU as a Policy Mediator

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At all levels of governance, policy-making concerns lesson learning within and between actors, institutions, units of governance, and policy regimes. As such, a core element of policy-making involves learning from the mistakes of the past, from prospective analysis of the future, and often from what others have or are doing. On a general level, three conclusions can be drawn from this. First, whenever a group of individuals from different political systems work together there will be ample opportunities to engage in and utilise policy transfer. Second, even if there are no face-to-face interactions, the growth of information and telecommunication technologies allows foreign political systems to offer interesting ‘laboratories’ of policy innovation. Third, it is often possible to use the information generated from these natural laboratories to help develop policies in political systems not actually connected to the initial laboratory, even if the lesson is not to follow what was done in the model political system.

Academically the process by which the policies and/or practices in one political system are fed into and utilised in the policy-making arena of another political system is known as policy transfer (Dolowitz and Marsh 1996; Dolowitz 2003). While policy transfer is a fairly simple concept, it has increasingly been the focus of academic and governmental attention since the early 1990s. This is due to both communities becoming aware of the potential influence foreign ideas and models can, were, and are having in the changing world of modern governance. As awareness of policy transfer spreads and concerns related to the globalisation of decision-making advance, interest has been growing in how policy transfer relates to the activities and decisions of international governing bodies such as the European Union (EU), and international

governing organisations such as the International Monetary Fund (IMF) and World Bank (see: Radaelli 2000; Stone 2000).

Before discussing the issues involved in the process of policy transfer within the European Union's decision-making regimes it should be clear that there is an almost limitless diversity in:

- what is and can be transferred – from complex institutional structures to simple ideas;
- the strategies and processes involved in transferring information from one setting to another – from simply looking at a model to complex combinations of events and agents;
- who becomes engaged in the transfer process;
- when actors (broadly defined) become involved in the process;
- and what motivates these actors to engage in policy transfer.

It is important to acknowledge that it is possible to transfer items as large as brick and mortar institutions: these often form the backbone of the system that in the long run shapes the overall political system, as the institutions themselves begin to form their own cultures and policy paths.¹ For example, when the European Union began establishing and transferring the ideas and structures associated with British regulatory policies during the 1980s and 1990s the decision-making pattern and policy space across the entire Union was set in motion. This space ensured that an Anglo-American model of regulation would and does dominate the policy space. In contrast, it is arguable that if a more Scandinavian model of regulation had dominated

the discussions and subsequent implementation patterns the role and style of the regulatory regime across the EU would look substantially different today. At the same time items as small as an idea or phrase can be transferred and have as great an impact on the political regime as any institution. One only needs to look at the use and spread of the concepts and language associated with 'third way' politics, from one political system to another. Just as institutions and ideas can be transferred, often it is useful to examine and utilise information associated with how other political systems undertake their policy-making strategies, and the mechanisms used implement these policies. Thus, while the use of local initiatives in the implementation of national policies has been around since the earliest forms of governance, it is clear that many of the 'new' community regeneration projects being developed and used by member states are emerging as a result of the policies and practices being transferred around the Union through EU policy-making institutions, directly from one nation to another, or being imported by EU policy-making institutions and member states from foreign political systems and organisations.

Just as there are a limitless number of transferable items there are also a limitless array of individuals who can become involved in the policy transfer process. These individuals are themselves driven by a limitless array of motives. Thus, during a series of interviews conducted between March 2002 and January 2003, the reasons given by individuals involved in the EU decision-making processes for why and how they became interested in and began investigating foreign policies ranged from simply performing their 'regular' job duties to observations made during vacations, trips, and even 'becoming interested in an idea after strolling the Internet one evening'.² Based on these interviews it can (and will) be argued that the structural arrangements

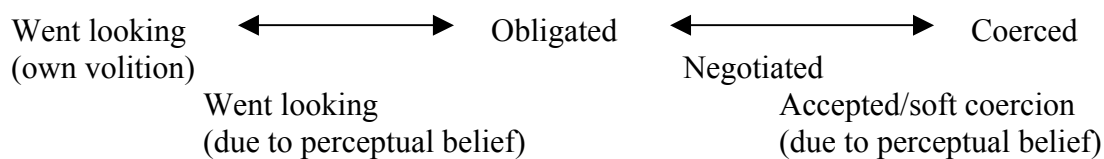
established by the Treaties creating the EU have in reality (as predicted by the New Institutional literature) institutionalised and regularised policy transfer directly into the Union's decision-making structures not only as a result of the regularised face-to-face interactions that occur within and across any given policy regime but due to the actual working procedures of Council, Commission, Parliament and their associated working groups, committees and policy networks.

Interviews also confirmed the fact that when engaged in the Union's policy-making process, no matter when or where someone becomes involved, there are opportunities to engage in policy transfer. This held true no matter whether the individual talked to became involved at the initial stages of 'setting the agenda' based on the ideas they brought with them from their host nation or were based on ideas generated from observations of foreign political systems, or whether they were involved in 'implementing' the decisions taken by policy-makers 'higher-up' the governing regime. Associated with this was the finding that often what motivated an actor to engage in looking at foreign models, shaped not only where they looked for lessons but also what lessons they drew from the information they collected. For instance, it is clear that there is an affinity between the Nordic States when operating at the EU level. As a result of this affinity, numerous interviewees referred to the fact that they had a 'tendency to look to each other for ideas'. This tendency was often highlighted by individuals discussing their (and others) efforts to build coalitions capable of opposing the proposals of larger EU nations or coalitions. Similarly, individuals at both the EU and state level provided evidence that when operating within the EU, German officials tend to look to the UK or France for lessons, but seldom both.

majority of members or at least as many members that are required for the policies passage.

When examining what motivates an individual or organisation to engage in policy transfer it should also be noted that when policy transfer is a requirement, this does not necessarily indicate that the power requiring the transfer is located within the indigenous political system. Often the pressure comes as a result of decisions made at the international level or emerges out of obligations taken on through treaties or membership within a larger organisation. Thus, any member state of the European Union can be forced into a policy transfer mode of decision-making if required by an EU directive or a ruling by the Court of Justice. Similarly, one of the key uses of the open method of coordination (OMC) has been to place political leaders and national political systems under pressure to engage in policy transfer. The idea here is to ensure that actors pressure themselves into action due to the perceptions created by poor league table rankings or performances in benchmarking exercises. The belief is that few nations will want to be seen as being laggards in the area under consideration and will thus look to those doing well for ideas on how to improve – thus driving the process of becoming more similar forward in the new policy areas covered by the OMC.

Not only is it important to examine what motivates the policy transfer process, it is just as important to consider how and in what way a search for lessons can be conducted (Figure 2). The reasons can vary from wanting to look for a new way of doing things to relieve the boredom associated with the way things are being done at present, to an externally developed policy being forced upon a nation against its will.



Stumbled Across

One of the key reasons it is necessary to examine what motivates (or encourages an actor to initiate) a search for foreign policy ideas and models is that often why a search is, or has been conducted, critically shapes what is found, how it is interpreted (i.e. are lessons drawn as to how the model might fit or alter an existing system or situation, or is the model taken uncritically, are lessons learned or is a model used without any thought), and how it is subsequently utilised within the policy-making process. Additionally, when examining Figure 2, it should be clear that it is almost impossible outside a situation of direct foreign control that an individual, country or international governing body could be completely coerced into accepting a model or solution developed by a ‘totally’ foreign political system or regime, though it must be stressed that it is not impossible. A good example of this occurred in the 1980s and 1990s (and then again after 11 September 2001) when the United States Federal Aviation Authority (FAA) passed new safety regulation governing all airlines using US landing facilities. The decision to alter the rules governing landing rights forced the EU to implement the new safety requirement in order to maintain landing rights in the United States. Despite this exception, or situations of direct foreign control, such as the US administration of Japan after World War II, most policy-making situations involving policy transfer are likely to fall somewhere in the middle of Figure 2. Similarly, it should be stressed that outside the endpoints most situations of policy transfer, particularly in relation to IGOs and international governing bodies (IGBs), are going to involve some form of negotiation between the actors engaged in the

process and other policy makers/implementers while the transferred item is making its way through the policy-making system (or systems). Finally, when thinking about this continuum, it should be noted that the different processes are likely to lead to different types of transfer and to different problems arising while trying to guide the item through the policy-making and implementation processes. For instance, if a system engages in policy transfer as a result of a coercive process, not only is the transfer likely to be less thought through but the secondary implications for the wider political and cultural systems will probably be neglected during the development stages. Similarly, when an item is brought into the regular legislative process, whether that be in an individual state or the policy-making institutions of an IGB, it is more likely to be subjected to a systematic examination as to its possible impacts and implications than items forced upon a nation (or IGB) by outside forces or events.

One final point worth discussing, since it will not be examined below, is that when engaged in obligated policy transfer it is particularly important to investigate the possible political and policy consequences of the transfer. The reason is that while the transfer might be required as a consequence of membership in a wider political system, often it is possible to temper how a policy is implemented into the existing system. For instance, any country that is part of the EU might be obligated to implement a policy emerging out of the Union policy process. However, within this there is often room to learn how other countries or even localities are implementing the policy before and during the implementation process (See figure 4). These lessons can come not only from the way other countries are implementing the directive, decision or regulation but might even be recycled from information gathered during the processes leading to the legislations passage at the EU level, or from outside

organisations or states. The key is to find lessons that can help reduce the adaptive costs associated with implementing general EU policies into specific political or social systems.

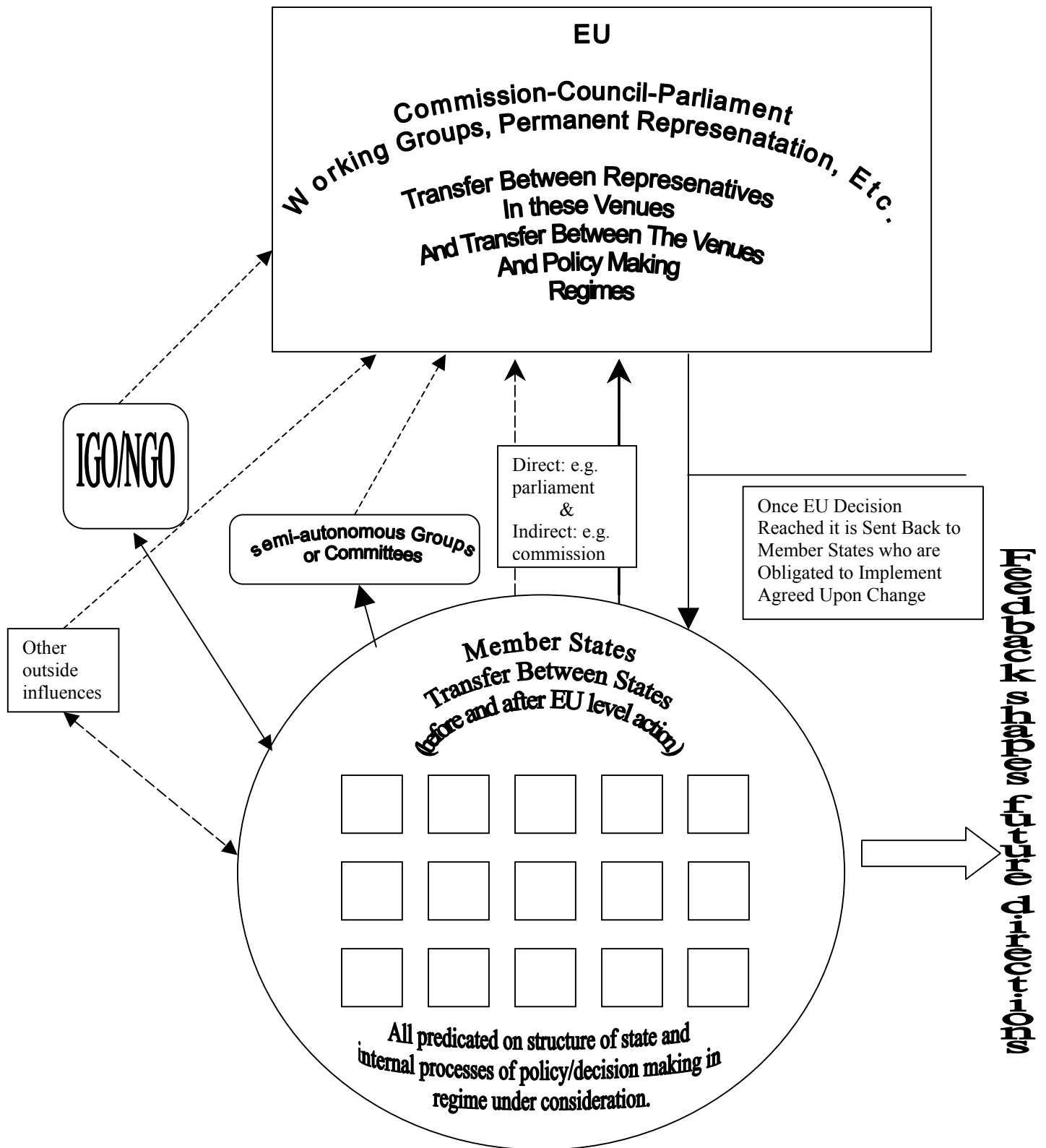
Regardless of why or how a decision to engage in policy transfer has been made, any analysis of the processes involved in policy transfer requires a consideration of how much of the information collected can or should be transferred – particularly if or while actually engaged in the policy transfer or development process (Figure 3)?

Copy ↔ Mixture ↔ Inspiration ↔ See what not to do

While the continuum between copying a foreign model in total, to using it to inspire an indigenously developed solution is fairly straightforward, the decisions made at this level, particularly when they involve international governing bodies such as the EU, are probably amongst the hardest when engaging in policy transfer. Not only will any decision on how to utilise information influence a policy's subsequent interaction with the existing political and cultural system at both the international and national level, but the decision will also ultimately shape the ease with which this is done and the processes involved in guiding the policy through the policy-making processes.

Given this, I will use the remainder of this paper to focus specifically on how the European Union works as a platform for policy transfer. Figure 4 should be viewed as a general illustration of how policy transfer operates through the EU's regularised institutional operations and structures.

Figure 4



The key to understanding Figure 4 is to realise that despite the multiple opportunities for policy transfer to occur at both the EU and member state levels, once the EU has

reached a decision the process takes place within the obligated/negotiated range of policy transfer. This is true no matter which mechanism or method is utilised, whether that be directives, regulations, decisions, recommendations, or opinions, or, whether the issue is decided based on the ‘Community method’, open method of coordination (OMC), a ruling by the Court of Justice or any other EU decision-making model.

This is true because as part of the process of joining the Union a nation must commit itself to acting in accordance with and implementing all aspects of EU Treaties and laws (unless granted an opt out) into their national legislation. Even when the Union opts for OMC, it is likely that members will be forced by their own perceptions (and those of outsiders) to comply with benchmarking indicators. Similarly, league tables will place nations performing worse than desired under a considerable level of pressure (both internal and external) to improve. As such, even if a policy is developed at the Union level, without any national input or direct indication that member states must alter their national procedures or laws, there will be a tendency to engage in policy transfer to ensure their relative position within the Union. This also holds true when nations look for ways to implement particular or new Union legislation into their national setting: since all members will have to alter their existing practice to accommodate the change(s) it is rational for states to look at other models used by other members and follow their lead (or learn what not to do if their lead is proving inadequate or ineffectual).

Finally, while policy transfer can occur at any level of the EU policy-making system – and at any stage of the policy-making process or even within one or more institutional arenas at the same time – the remainder of this article is going to be concerned with

the key influences and processes interacting with policy transfer within the Council, Parliament, Commission and their associated bodies.⁴ For it is clear that the very nature of the EU decision-making institutions are based on policy transfer for no other reason than the: ‘real essence of EU politics are the constant interactions within and between the EU institutions in Brussels, between national governments and Brussels...in bilateral meetings between governments and between private interests and government officials in Brussels.’(Hix, 1999, 4)

While policy transfer is endemic to the European Union political system, it can be argued that at the top of the EU policy transfer chain sits the Council of Ministers, in all its formations and regardless of the formation’s informal hierarchal position. The key to understanding this is to realise that the Council was developed to ensure that every nation of the Union could input its opinions and views directly into the EU decision-making process, and, in turn, have the authority to ensure that once a decision was reached by the Council that members could commit their respective governments to the compromises reached.

As the key institution in the legislative process, a core site of intergovernmental procedures, and an embedded institution specifically designed to ensure all member states have the opportunity to forward and defend their national interests, policy transfer will always be at the heart of the Council’s operating procedures and as such, the Union’s decision-making process.⁵

Supporting the Council’s role in the spread and implementation of solutions generated through policy transfer is the structure of the Council’s Presidency. While the

President of the Council is generally discussed as being a 'neutral position', at a minimum every member nation of the EU will have the opportunity to utilise the coordinating and medium term agenda setting activities of the presidency to project their national views directly into the proceedings of every Council formation. This is true even if the President's preferred solutions do not dominate the Council proceedings or agenda for no other reason than as 'a first amongst equals' the President's position, as will be elaborated upon, enhances their nation's ability to shape the presentation and flow of information and 'solutions' directly into the EU's decision-making apparatuses. This ability to influence the decision-making processes of the Council has been institutionalised due to the decision to use civil servants in the President's home nation to help coordinate the Council's activities and issues presented to the Council during the nation's presidency. As national level bureaucrats, even if neutral in their outlook towards their activities and document production, these civil servants will naturally frame issues in ways advantageous to that nation. This is because even under conditions of perfect neutrality, as national civil servants, they know their indigenous system best and as such will naturally use it as their benchmark. More contentiously, it could be argued that as national civil servants, it is in their interest to inject their preferred ideas into their work, as no matter what decision is taken at the EU level, these individuals will continue operating within their indigenous political system once the presidency is relinquished and will thus have an interest in ensuring any changes required by EU decisions will bring about minimal adaptive costs.

Not only does the Presidency bring with it the ability and necessity of utilizing nationally based civil servants in the organisation of Council business, but the

President can also call on their nation's Brussels-based Permanent Representation to help them organise the legislative process. As with the nation-based civil servants, the Brussels-based Permanent Representation is there to represent the interest of its home nation. As such, when a nation holds the Presidency, its permanent representatives have an increased ability to forward their nation's preferred solution during pre-council negotiations and within the proposals going before the full Council. As some of the most important coordinating units of the Union are directed toward the President's priorities it is clear that the President's National policies and preferences will have an advantage for the six months that President's in charge of coordinating the EU's legislative agenda.

With regard to the role of the bureaucracy operating below the ministerial level, it is arguable that, regardless of the ministerial exchanges of information occurring during formal Council meetings and though informal contacts between Ministers looking for policy solutions and coalition partners, the very nature of the Council's internal workings ensure policy-transfer will be an endemic feature of the EU's legislative process. In the process of facilitating pre-legislative agreement, the Council's regular and ad hoc committees system and working groups are designed specifically to find compromises based on formalised contacts between national representatives expressing their own nation's preferences, ideas and preferred solutions. In fact, it has been estimated that almost 70 per cent of all Council decisions are agreed in 'working groups of national officials below CORPER II', with the Permanent Representatives, themselves advocates of national preferences, addressing another 15-20 per cent of the legislative business dealt with by the Council (Hix, 68). All told, it has been estimated that: 'every day between 300 and 400 officials from national

bureaucracies attend meetings in the Council buildings...The result is a growing institutionalisation of patterns of interaction and bargaining which is essential for the operation of a successful legislature' (68).

While it could be argued that having national representatives working with the Council doesn't indicate the presence of policy transfer, it is hard to ignore that their remit is as: 'representatives of their national governments, operating on instructions received from their respective capitals' (Hayes-Renshaw, 2002, 54). As representatives operating under instructions they will be bound to ensure their home nation's policies are represented in the negotiations leading to a final proposal, and at a minimum, ensure their national preferences help shape these proposals so that at least any undesirable adaptation costs for their host nation are minimised. Moreover, it is clear that national solutions and preferences are fed into the legislative process within the Council not only as a result of ministerial preferences but also due to the influence of their home civil servants, for it is state-level civil servants who are responsible for preparing the ministers responses to the Commission's proposals discussed in the Council. Because of the level of input national officials have in the Council and at pre-Council meetings, policy-transfer will inevitably be a major source of initiatives and ideas floating around these policy-making forums.

The Committee of Permanent Representatives (CORPER), in both of its formations, further institutionalises policy transfer into the Council's working procedures. This occurs because, regardless of their official positions, individuals sent to CORPER are drawn from member states and as such have alliances and allegiances to their national models. CORPER is as a pivotal institution in the every day decision-making process

of the EU, as such permanent representatives lie at the heart of the negotiation processes occurring between member states. As such, the position of CORPER in the Union's decision-making process ensures that to a large degree the success a nation will have within the EU depends on its permanent representatives. Because of this states send highly qualified individuals who will actively promote their national interest. Not only does CORPER lie at the very heart of the decision-making process but much of its work involves policy transfer between member states as permanent representatives are charged with the responsibility of finding agreement and ensuring these are binding amongst member states. More directly, CORPER, in both its formations, is:

the ideal institutional site to examine national interests in the context of everyday EU decision-making because Corper is the needle's eye through which the legislative output of the Council flows. Because a defining trait of the Council is its sectoral differentiation, pursuing the 'national interest' across its operating formations requires national systems of interest intermediation and interministerial coordination...It is here that permanent representatives, with their cross-Council negotiating mandates and intersectoral policy responsibilities, practise an essential aggregation function, which runs the Gamut of EURO affairs (Lewis, 2002, 279).

As will be taken up below, not only has CORPER emerged as a key site of bargaining and negotiations amongst individuals sent to Brussels to champion their national interests but it can also be argued that the role of the permanent representation in the policy transfer process is crucial to the entire legislative process as a result of its

position within the EU's institutional decision-making structures. Being central in behind the scenes legislative activities allows CORPER to engage in transfer amongst its members and the ideas they bring in relation to their home nation. Additionally, the institutional position of CORPER also allows it to act as a key bridge for transferring lessons across policy, institutional and regime boundaries. As actors involved in policy development and negotiation across all policy areas within the Council, the permanent representatives can take information from one area to another; spreading ideas and information from one policy proposal to another, between different member states, across institutional boundaries; all without ever having to wander outside their regular institutionally established contacts and meetings. Similarly, as representatives under 'instructions' from their national governments as to aims and acceptable outcomes, members of CORPER can input their nation's preferred solutions directly into the policy-making process, at the very least minimise any damage a proposal might have on national indigenous political systems.

These broad characteristics ensure the Council acts as an ongoing forum for the spread of ideas and policies amongst member states. The Council's role as the core representative body charged with decision-making responsibilities – regardless of the voting rules that apply to the issue under consideration – within the EU institutional arrangements also consolidates its role in guaranteeing that policy transfer lies at the very heart of the European Union's decision-making processes. As the core institution in the EU's legislative decision-making process, the Council must work to aggregate the interests of member states and reconcile the various conflicts that emerge during this process. As any form of legislative decision-making requires compromise, and a core function of the Council is to develop compromises around

national interests, policy transfer is going to form the core of this, as individual ministers forward their own ideas and models based on what will minimize their national adaptation costs. Probably the clearest embodiment of this (and of the intergovernmental nature of the Council itself) is the Luxemburg Compromise, which, while not legally binding, has been used for almost 40 years to protect the national interest of individual member states. As a result of the Council's acceptance of the Compromise's legitimacy, any member state who is faced with an issue of 'vital national interest' can force Council members to take its views and preferences into consideration. As such, the Luxemburg Compromise ensures there will be an element of policy transfer, even if only used in a political fashion, involved in much of the formal Council proceedings, as well as the sub-Council procedures.

While all issues will be subject to the possibility that policy transfer was involved in the negotiation process, the form these transfers take will vary based on the issues involved, the type of voting procedures governing the issue, and the type of co-decision making rules in operation. For example, it should be expected that under most situations where the rules governing the issue in question require a unanimous vote, it is likely that a much softer form of policy transfer will occur. Thus, rather than seeing detailed solutions being developed based on the transfer of very specific models used within a member state (or combination of states), it is more likely that the Council will transfer a mixture of loose ideas (or even simple inspirations) from a number of member states, so that it is not in any nations interest to veto the legislation as being 'too out of line' with their national interests or their existing political and social systems. However, when qualified majority voting governs the decision-making regime it is more likely that a form of hard policy transfer will emerge, with

the Council developing solutions based on a mixture of nationally inspired policy solutions and programmes. This can most clearly be seen when it is necessary to develop coalitions capable of passing policy proposals. Coalition formation will require that each partner get something out of a particular policy. This said, it is arguable that, regardless of the approach taken in the development and passage of EU decisions, most leave considerable room for member states to learn from each other (or outside political systems and institutions) when implementing decisions.

Similarly, as a result of the increased use of qualified majority voting (QMV) procedures there has been an increased necessity to form coalitions with other nations in order to gain the support needed for the passage of legislation. Because of this, there has been a growing need for nations to trade policy ideas, programmes, inspirations etc. in order to ensure they can maintain the necessary support of their coalition partners. As such, policy transfer will be taken to the heart of most issues involving qualified majority voting procedures. Moreover, as each issue will involve different preferences, it can be further assumed that the coalitions will be fairly fluid, ensuring that a wide variety of national 'models' work their way into EU legislation (see: Peterson and Shackleton, 2002, 56-8).

These two procedures further point to where policy transfer is likely to occur in the overall EU decision-making regime. Since rules of unanimity tend to require a much softer form of policy transfer, it is likely that whatever form the legislation is sent down to member states (i.e. directive, regulation, OMC etc.) will allow, if not encourage, member states to engage in cross-national policy transfer in their efforts to implement the legislation into their home political systems; this is only highlighted

when it is accepted that one of the key purposes of the EU and its legislative process is to encourage member states to be more alike in their policy systems. Similarly, when the decision making process depends on a QMV, it is likely that as much policy transfer will take place at the Community level in the development of legislation, as occurs at the state level due to the need to develop legislation based on compromise and coalition-formation.

The European Union Parliament, composed of representatives elected from individual member states, will also be actively involved in the policy transfer process. This will hold during both the plenary sessions of the EU Parliament and within the pre-plenary working group and committee stages of a bill. While policy transfer has always been a part of the Parliament's working procedures over the past 20 years, the EU Parliament has streamlined the process of policy transfer through two internal procedural changes. First, each specialist policy committee is charged with selecting a member to act as that policies *rapporteur* for the remainder of the legislative process. Anyone who wants to influence the Act outside of the Parliament, including member state governments or even the Council of Ministers, must direct their discussions to the *rapporteur*. Because of this, the *rapporteur* has the ability to synthesise the ideas and policy solutions brought to them into a concrete proposal. Similarly, the *rapporteur* can select the best ideas from different nations to forward.

Second, in organising the Parliament along party lines, it can be argued that policy transfer has been institutionalised into the Parliament's operational procedures. As the primary organisations structuring the procedures and debates within the Parliament and its committees, these groupings, which must include national

representatives from more than one member state, is consistently learning how other nations operate and view any given issues or procedure. This information is then be fed into the committee system and used during plenary sessions. Similarly, when it is necessary to engage in coalition formation for the passage of amendments or parliamentary versions of legislation, it is party groups who bargain amongst each other. These negotiations, involving both ideological groupings and compilations of national representatives, are bound to involve the spread and use of foreign policy ideas and models. Clearly these groupings, as directly elected representatives of their member state, contribute to the integration of national based information into any policy area they are involved in developing and approving.

The role Parliament plays in the legislative process since the ratification of the Maastricht, Amsterdam and Nice treaties establishes another potential route for policy transfer to enter the EU's decision-making process. The key to this has been the introduction of co-decision procedures, though Parliament's role in both the consultation and cooperation procedures will also tend to inject elements of policy transfer into the legislative process.⁶ In areas governed by co-decision procedures the Parliament has been able to inject its agreed upon solutions into the legislative process as a co-equal of the Commission. As a co-equal partner in the legislative process, and an institution composed of members elected by the citizens of individual member states to represent their best interests, it is arguable that the amendments offered to Commission proposals will involve as much, if not more, policy transfer than the work of the Council. This claim is given added credence when it is recognised that the key to understanding Parliament is its party groupings, which combine and mix elements of national models into new policies acceptable to all member nations within

the party grouping. When combined with the dialogue leading to an agreed upon Parliamentary position, the co-decision procedures ensures policy transfer will always be an essential element of the EU legislative processes, particularly as each of the key legislative institutions, committees, and working groups within both the Council, Parliament and joint institutions between them (and the Commission) are composed of representatives drawn from and operating on behalf of their home state as well as the Union.⁷

It is clear that the legislative process developed by the European Union inherently depends upon and integrates policy transfer into the EU's decision-making procedures. Any institution designed specifically to encourage, even require, the interactions of individuals charged with finding compromise based on their own national models will be fundamentally dependent upon policy transfer in its operations. However, it is equally clear that policy transfer is a core component of the executive procedures and politics found within the Union, even though the core executive institution of the European Union, the Commission, is technically a politically neutral body. The role of policy transfer in influencing Commission decisions can clearly be seen in areas such the Common Agricultural Policy (CAP) and competition policy, where the EU's executive institutions have enhanced powers of direction and coordination.⁸

While Commissioners are formally neutral in relation to the models they know and bring with them from their home nations, it is inevitable that they will be involved in policy transfer. Even if they are neutral in regard to the models they have developed and which are used within their home nation, as the core institution charged with

initiating and developing all policy sent to the Council and Parliament, the Commission and its associated bureaucracy, the Directorates Generals, is the initial focus of groups in and outside the Union who want to have issues placed on the Union agenda. It is then up to the Commissioners and their DG staff to decide which mixtures of ideas and policy solutions to bring together in their formal proposals.

As mentioned, while the Commission is formally a neutral body, with Commissioners relinquishing their national loyalties to devote their activities to the Union and what is best for it, the Commission's internal workings still provide ample opportunity and structure for the formal institution of policy transfer. First, not only are national civil servants involved in the behind the scenes workings of the Council, they also play a key role in the work of the 'formally' neutral Commission.

In the drafting of legislation, initiatives, national officials are members of "expert" and "consultative" committees set up by the Commission, and national civil servants are also involved in scrutinizing Commission proposals in CORPER working groups. And, following the adoption of legislation, national civil servants monitor the implementation of EU legislation in "comotology" committees. (Hix, 30)

As these civil servants are formally consulted as representatives of their individual member state government, it should be expected that they will forward their government's/state's preferred solutions. Similarly, when gathered in committees looking for viable 'European' policy solutions, an awareness of the needs and requirements of their home political system suggests that civil servants will naturally

adopt a strategy to ensure that their individual national model is utilised within the solution, or that where no specific model is available, that the model developed will maximise the fit between the initiative and their existing political system.

The composition and function of Commissioners' private offices (or cabinets) adds credence to the argument that, despite its official position of neutrality, the Commission is a site of intense policy transfer. While there have been recent changes to the composition of Commissioners' private cabinets, it is still the case that a substantial number of cabinet members are drawn from the Commissioner's home state. This fact alone has led to the allegation that cabinets have been designed to act 'as agents of their member states' (Peterson, 2002, 87).⁹ Thus, in any given area it is probable that the key to understanding the initial Commission position will be to examine the political system, or proposed solution, as it operates in the home states of the Commissioner responsible for the policy area. It might also be just as fruitful to examine the political system, or the combination of systems, the Commissioner and their cabinet members consulted during the initial phases of policy development, for while consultation does not necessarily equal influence, it is likely that some form of transfer occurs during these meetings, even if only to confirm that the Commission should not utilise a particular model or idea.¹⁰

Rounding up the Commission's role in the policy transfer process within the core executive institution of the Union is the role played by the Directorates Generals. As the Commission's standing bureaucracy, it should be expected that members of the DG's attempt to advance the cause of the Union when they work on Commission proposals and oversight activities. However, it has been noted that despite the

independence of any given DG, Directors-General, or civil servant serving within the DG, even those who have been recruited through the open competition, tend to be open to ‘influence’ by their host governments and groups operating in their home nation. Those who have been drafted into DGs to fill senior posts are even more likely to be susceptible to influence by host models or solutions, which they will then forward as part of the DG’s policy recommendations to their Commissioner (see: Peterson and Shackleton, 2002).

While any given member of the Commission or the Commission’s Service might have a predilection toward advancing models developed and used within their host nation, the very position of the Commission within the EU institutional structure will ensure it acts as a conduit of policy transfer. While this is true for many reasons, two stand out. First, the Commission and its Services are the only institutional actors to be involved at every stage of the EU’s legislative process. This allows the Commission to mediate between different actors and institutions based on the different models and ideas being expressed during the legislative process. Thus, not only can policy transfer occur between different issue areas within the Commission, but, as the central hub within the legislative and executive process, the Commission is capable of mixing various models and ideas into a concrete vision for the EU. Second, the structure of the Commission and its Services allow key members of the Services to move from one area (or DG) to another. This movement allows them to bring preferred solutions and models from one policy area to another. An excellent illustration of this can be seen in the career movements and activities of individuals such as Nicholas Argyris, who was involved in the activities of several DGs over the course of his career. The role of these individuals in the spread of ideas and models across issue areas and

regimes was raised during numerous interviews and by various individuals who had travelled between DGs across a range of issues from Telecommunications to Airline regulation. What each interviewee made clear was that, as high-level entrepreneurs move between DGs during their careers, they tend to take lessons with them from post to post, and that they use these lessons in the development of policy proposals across different policy arenas (information gathered during interviews conducted between 1/1/02 – 13/7/02). Particularly important in this process appears to be the use of negative lessons. It is clear that when these individuals move from area to area they remember what has not worked and actively work to avoid implementing similar solutions in other areas regardless of the pressures they find themselves under by national representatives.¹¹ Similarly, it is clear that as key actors operating within the Directorate Generals, whose knowledge and institutional position allows them to insert models and ideas into decision-making arenas, they can and do transfer ideas and models around the Union.

The second core element of the EU's executive, the European Council, and its twice-yearly intergovernmental conferences (or summits), actually embody the very essence of policy transfer. As a forum established to allow the heads of member governments (or the head of state and government in relation to France and Finland) to work together in providing overall direction to the EU, the Council is an institution specifically dedicated to drawing on national policy models to help direct the future direction of the whole of the European Union. It can be argued that not only does policy transfer characterise the nature of the European Council but also the pre-Council negotiations and contacts. While formal Council meetings only take place twice a year, they are prepared for long in advance, with much of this preparation

consisting of informal contacts between the President of the Council and the heads of government of other member states. While not dedicated to policy learning, these meetings involve a considerable element of policy learning and negotiation in order to smooth the interactions at the Council itself.¹²

While not the purpose of this article, it is worth mentioning that through EU institutional structures act to ensure there are ample opportunities to exchange information and ideas, it is just as important to understand, as illustrated in Figure 4, that the EU policy-making regime and institutions do not act in a vacuum. Indeed, to properly understand why a particular model (or combination of models) is utilised in this process it is also necessary to consider how exogenous factors influence the EU decision-making process.

To take one example, it is clear that the time, timing, and tempo at which policy transfer develops within the EU and its member states will play an important, if not determining role in both the policy transfer process and in helping to explain why a given model was ascendant at the time it was adopted. Like ‘windows of opportunity’ (Kingdon 1984), exogenous elements help determine what policies are available when the opportunity to forward a given model emerges, at what stage and within which institution the opportunity emerges, and to what degree different policies will be combined into the final solution.¹³

Similarly, there are inherent characteristics of any given policy area which will impact on how the policy transfer process works within the EU’s decision-making structures. For instance, it is arguable that one of the key reasons the EU is shifting to the OMC

is due to the timing of events and the nature of the issue areas it is moving into. Thus, when the EU was operating in areas where technical solutions were the predominant model available, it was fairly easy, if not necessary, to formulate policy at the EU level and send it down to the member states.¹⁴ As the Union has moved out of its core areas and into more ‘volatile’ areas it has needed to develop new mechanisms to ‘encourage’ member states to move together. As such, in areas of controversy it is arguable that the first step towards unification will be the utilisation of OMC procedures and techniques, which to a large degree encourage members to look to each other for ideas and policies necessary to ensure their performance in benchmarking and league table exercises will be politically and socially adequate at EU and national levels. However, it is arguable that once a certain level of uniformity has been reached, more traditional mechanisms might replace the OMC to complete the ‘unification’ process.

In conclusion, not only has the EU moved into the realm of issues previously dealt with ‘exclusively’ at the national level, this move has ‘forced’ it to move from direct legislation a looser form of policy design, one capable of ‘encouraging’ member states to adapt their indigenous political systems as a result of internally generated pressures in response to perceptions of national excellence.

It is also true that enlargement has brought with it a number of new issues regarding the question of policy transfer in the EU and the types of solutions that will emerge as a result of transfer. For instance it is arguable that the emergence of new members has created a number of institutional changes, necessitating new forms and locations of policy transfer within the EU. These include:

- the development of the new voting procedures within the Council;
- the emergence of co-decision-making rules and procedures, which not only increased the power of the Parliament but clearly developed an entirely new arena for the transfer of policy and ideas across institutional boundaries;
- the necessity of developing new mechanisms for encouraging nations to become more similar, though not reliant on top-down procedures, which no longer have the ability to gain the necessary support within the increasingly divergent national needs and opinions contained within the EU's legislative process;
- the development of new coalition opportunities and needs, which rely on policy transfer;
- the emergence of more models being brought into the core of the EU decision-making processes, particularly with the arrival civil servants from new – often very divergent – nations in the Commission Services and CORPER;
- and probably most importantly, enlargement has seen the dramatic increase in the number of nationally committed individuals operating within the EU's institutional structures, each promoting their given national model.

All of these pressures and opportunities have necessitated (and provided) the structural developments which have furthered embedded policy transfer into the EU's decision-making procedures and institutions. Thus, as the EU continues to change and enlarge, new needs and opportunities to engage in policy transfer will emerge. With them will come an ever-increasing mixture of national models and ideas to choose from.

¹ For more information see the literature associated with New Institutionalism, particularly that associated with Rational Choice, Historic, and Sociological Institutionalism. While the link between institutional structures and policy learning is very underdeveloped clearly the rules of the game, cultures and policy paths that form around and within institutions not only shape which policies and political systems are regarded as being acceptable modellers but also how the institution will itself deal with and go about analysing the information gathered through the policy transfer process.

² Interviews were conducted with members of the British, Finnish, Danish, Dutch, Spanish and German national governments and regulatory institutions and with individuals operating in the EU Council, Commission, CORPER and DGs. For more information contact author.

³ This continuum is for analytical purposes. As such, it should be stressed that there are more reasons individuals can be motivated to engage in policy transfer than are listed, that the distance between any two points are not necessarily equidistance, and that the categories listed can be moved about and will at times clearly overlap in any single instance of policy transfer. The same will hold true for the information presented in Figure 2

⁴ While it is clear that the power of the European Court of Justice makes it a crucial actor in the transfer of policies from the EU to member states after the EU political system has established new rules or guidelines for its members, it is not a vital actor in the initial processes of policy transfer within the EU (though it clearly establishes frameworks of acceptability and opportunity structures for other institutions and policy regimes). As such I will not be examining its role in the EU policy transfer process within this article.

⁵ Under most procedures the European Union acts as a supranational institution, however, within the core institutions of the Union, especially the Council and Commission, the Union can be characterised as intergovernmental since within these institutions nations retain their sovereignty and must from compromises as 'equal' partners.

⁶ The co-decision procedure involves one, two or three readings. Its effect has been to increase the number of contacts between the European Parliament the Council, the co-legislators, and the Commission.

⁷ This does not indicate that there is a lack of compromise based on the needs of the Union or that representatives of the member states do not work together to find common Union policy. In fact, it is arguable that it is in each member's interest to work together towards a common approach for this will clearly increase the power of each member state in the face of global forces and pressures. What it does indicate is that these compromises will probably be based on a combination of national models that will often mix into an entirely new policy.

⁸ It can be argued that competition policy is a unique regime where the Commission has become likened to a semi-independent agency.

⁹ The two key changes took place under the Prodi Commission. At this time the number of cabinet members each Commissioner could appoint was reduced and each Commissioner was required to appoint a Head or Deputy Cabinet Head from a member state other than their own.

¹⁰ Very clear examples of this can be seen in the early phases of electricity regulation where the British Commissioner clearly forwarded his national solution into his proposals. See: Padgett, S. (2001), "Between Synthesis and Emulation; the Processes and Outcomes of EU Policy Transfer in the Power Sector." Paper presented at the 2001 *Annual Meeting of the American Political Science Association*, San Francisco, August 30-September 2, 2001.

¹¹ It should be stressed that as all the data for this assumption was drawn from areas governed by competition policy it is possible that similar findings might not be found in other areas not so closely related or governed by the Commission.

¹² Clearly, during the term of any President leaders of all the EU nations are in contact in both face-to-face meetings and through technologically-mediated-communications (e.g. fax, e-mail, phone, etc.). These communications not only provide a further mechanism for the transfer of ideas but ensure that at some level the policy preferences and ideas of various EU nations will be feed into the draft agenda of the European Council but also the solutions and proposals developed during the Council; further integrating policy transfer into the very institutional structure of the EU.

¹³ Similarly, the time, timing and tempo at which the policy transfer process occurs will help determine whether the onus of the transfer is at the EU level or at the nation state level and in what degree of completeness it is transferred.

¹⁴ Even though these solutions are send down to member states who adapt their existing political systems to comply with the EU legislation, these compromises are themselves fundamentally shaped based on the mixture of solutions and compromises the member nations reached of their own accord within the EU policy-making institutions.

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