FROM SPARRING PARTNERS TO BEDFELLOWS: JOINT APPROACHES TO ENVIRONMENTAL POLICY-MAKING

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Joint approaches to environmental policy-making, particularly those involving voluntary agreements (VAs), have gained popularity in many instances in recent years as a complement to the regulatory and economic instruments that have been more commonly applied to date. Joint approaches to environmental policy-making are based not on confrontation but on co-operation and consensus. Based on the results of two major cross-national research projects, this paper discusses the current status of this 'friendly' approach to policy-making across Europe. Reasons for the emergence and development of this approach to policy-making are proposed and the function, effectiveness and efficiency of the related policy instruments are evaluated. The analysis highlights the significance of both the formulation and implementation processes and the design and content of the instruments. It also stresses the importance of the cultural, political, institutional and environmental context in which these approaches are developed and used. The proposed framework provides a practical checklist for business and governmental policy-makers alike, advancing the understanding and evaluation of joint approaches and VAs. Copyright © 1999 John Wiley & Sons, Ltd and ERP Environment.

INTRODUCTION

The potential of new forms of environmental policy instruments has received increasing interest in Europe in recent years. The European Commission’s Fifth Environmental Action Programme (EAP) promoted the wider application of new policy instruments to promote the move towards sustainable development. The 5th EAP also reflected the calls for shared responsibility espoused by the Bruntland Commission in 1987 (WCED, 1987) and the ‘partnership approach’ advocated during the Earth Summit in 1992 (UNCED, 1992). Whilst a number of national governments were already putting these principles into action, the initiatives called for by the 5th EAP reinforced interest in the potential of joint approaches to solving environmental problems.

AN ENVIRONMENT FOR CONSENSUS?

Joint approaches can be defined as policy tools that are formulated, negotiated and/or
implemented by both government and industry that have a voluntary element. The distinguishing features of these consensus-building instruments, from the consultation common in many Western democracies, are the jointness of policy formulation and implementation and voluntariness of the mode of governance that stresses the importance of co-operation and partnership between private and public actors. These two aspects can be seen on a continuum. The position of joint approaches in relation to other policy instruments is depicted in Figure 1.

‘Joint approaches’ is a broad term given to a group of communicative, social instruments, which often focus as much on the policy processes as on policy content. It is increasingly common to see these approaches used in a broader policy mix with economic instruments and/or more traditional forms of regulation. The term covers a variety of instruments ranging through voluntary or negotiated environmental agreements, convenants, EMAS, eco-labelling, codes of conduct and declarations of intent. Voluntary agreements (VAs) are the most common form of joint approach, with over 300 heterogeneous agreements enacted in the last two decades in the EU, particularly in the Netherlands and Denmark. There is also increasing experimentation with joint approaches and VAs internationally, notably in the USA, Canada, New Zealand and Japan.

Reports from the European Commission (1997), EEA (1997) and Öko-Institut (1998) on environmental agreements in the EU show that their significance and function in national environmental policies differs considerably according to the content, context, parties involved, subject, legal status and function in relation to existing legislation. A comparison of the results of various research on VAs in environmental policy across Europe\(^2\) reveals a preference for specific policy sectors that closely reflect the themes set out by the European Commission in 1992 in the 5th EAP. About 20% of agreements concern waste management, and 26% cover climate protection and energy reduction, the majority in the Netherlands and Germany. Other popular areas are water quality, and to a lesser extent air pollution, water pollution and ozone depletion, with only a few relating to soil protection. These preferences do not necessarily mean that the instrument is most suitable in these sectors. The preference for certain topics reflects more the 5th EAP themes and/or the specific interests of actors. Over 16% of agreements addressed at least two themes,

indicating that agreements are used to solve multi-issue questions in multidisciplinary fields, particularly in The Netherlands. The 1996 Progress Report on the 5th EAP highlights the progress made in integrating environmental issues into industry and energy. However, whilst joint approaches have largely (sometimes unwittingly) followed the principles of subsidiarity and shared responsibility, they have not been successful in tackling other key issues of public information and education and cost–benefit analysis. The use of joint approaches across Europe indicates that the degree to which they are applied strategically as part of a wider framework of policy varies. Thus, in some countries such as the Netherlands and Germany they are applied strategically whilst in many others they are applied on a more ad hoc basis.

Most agreements in the EU have introduced only a moral obligation to comply with their commitments, except in the Netherlands where 90% of agreements are legally binding. Only Denmark and Belgium have a legal framework for making agreements; however this has never been applied. The non-binding character of the EU eco-management and auditing and eco-labelling schemes also indicates that a degree of informality is necessary to joint approaches and that the non-legal basis of the commitments made is part of their attraction, particularly to industry and the political advocates for industrial interests.

Issues associated with the legality of VAs and the influence of the commitments made within VAs were discussed extensively in the Communication and Recommendation on Environmental Agreements (Commission of the European Communities, 1996). This sees a limited role for agreements in implementing directives, especially where rights and obligations for individuals need to be created, although agreements could help to realize the goals of general programmes or targets. While the use of VAs at the EU level has been relatively restricted, DGXI (the Directorate General with environmental responsibility) has been increasingly active in initiating and responding to approaches from EU industry associations and multi-national companies to make informal environmental agreements such as the recent Detergent Manufacturers Association agreement or the Auto-Oil programme. On a national level the use of VAs has continued to expand in countries such as Germany, the Netherlands, Denmark and the UK and also in countries such as Greece and Portugal that have had little prior experience with their development or use.

**CASES FOR THOUGHT**

The JEP project selected themes from Austria, Denmark and the Netherlands because they share a policy culture characterized by relatively close, consensus-oriented relations between public and private actors. These are not the only European countries where the link between consensus based policy-making and joint approaches can be seen. However, these three ‘corporatist’ policy cultures provide a good illustration of the political and social atmosphere assumed to be conducive to the development of joint approaches in policy-making. By selecting similar countries, the small variations between the political and institutional context, and the emergence and functioning of joint approaches, could be investigated. Within these countries, three themes where joint approaches had been developed in all the countries were selected: packaging waste, CO₂ reduction/energy efficiency and organic food labelling.

The methodological perspective used the political and sociological theories of ecological modernization, network theory and policy cultures to explain the reasons for emergence, shape and functioning of negotiated agreements. The analytical – descriptive framework proposed in network/policy culture theory provides a toolbox to analyse relations between actors in joint approaches. This assists a study of the policy process, from formulation to implementation, and its effectiveness. It combines an analysis of the structure of institutions with the interplay between public and private actors (interest groups) constructing a network for decision-making and policy implementation (Mol and Leiferink, 1996; Jordan and Richardson, 1982). Ecological modernization is a theory of political and social response to environmental dilemmas, and can be used to describe and analyse the shift to a new phase of environmental policy-making that is characterized among other things by a search for innovative forms of policy that
might include a move towards non-regulatory, participative approaches.

The comparative analysis of the JEP study assessed various themes to provide insights into why and how joint policy-making emerged and developed as a popular policy response in the various countries studied. The comparative analysis also evaluated the factors that encouraged and prevented joint approaches from developing in a certain political-institutional setting and the mix of ideas and interests that can lead to joint policy-making in a particular country.

An associated study assessed the potential of ‘New instruments for sustainability’. This reviewed the status of agreements in Europe, followed by in-depth case studies of eight joint approaches across four countries, in different sectors, settings on neighbourhood, sectoral, regional and national levels. To examine what happens when joint approaches are used and uncover some modern ‘policy myths’, four hypotheses were developed to test the effectiveness and efficiency of agreements as policy tools. These propose that

(i) environmental agreements lead to a higher level of environmental protection than other instruments,
(ii) environmental agreements are more cost effective than other environmental protection instruments,
(iii) the participation of all social actors is essential for the long term success of environmental agreements and
(iv) high acceptance of agreements as valid policy instruments by all social actors is essential for their success.

The findings of the ‘New instruments for sustainability’ and JEP projects are set out below.

FINDINGS: A QUESTION OF CONTENT AND CULTURE

The JEP case studies in the fields of packaging waste and energy efficiency and organic food labelling in Austria, Denmark and the Netherlands revealed the significance of a number of political, institutional and cultural factors relating to the development and use of joint approaches.

Firstly, the project established that political and industrial support for ‘deregulation’ does not automatically or necessarily lead to the use of joint approaches. This was illustrated by the Austrian experience, where, although voluntary initiatives predominated in the energy field, joint approaches only existed alongside a tight regulatory framework in the field of packaging and were only used marginally in relation to organic food labelling. Similarly, it was found that interest in the potential of new policy instruments does not automatically lead to joint environmental policy-making. This is illustrated by the Danish experience, where voluntary agreements have been introduced in a relatively ad hoc manner only for specific sub-issues in packaging while in energy efficiency binding agreements are used in close connection with the CO₂ tax.

The emergence of joint approaches in practice also appears to depend largely on the characteristics of the general policy culture. A consensual rather than an adversarial style and a pragmatic rather than a legalistic approach were generally found to be more conducive to the development and use of joint approaches and voluntary agreements. This was illustrated by the use of covenants as a central policy tool in the Netherlands but not in Austria. It was also found that ‘corporatist’, consensus-oriented policy styles, as found in all three countries, are generally conducive to developing joint approaches but that dominant corporatist organizations and decision-making structures may prevent the pragmatism necessary for successful joint environmental policy-making from taking effect. It was also apparent that industry sectors and branches needed a high level of organization before they could successfully conclude a joint approach, and that, if this pre-condition was missing, there was a great chance of a failing agreement, as for example in some of the Danish packaging agreements.

Analysis of the eight cases³ in the ‘New instruments for sustainability’ project also produced an interesting range of conclusions. This study concluded that joint approaches generally do contribute to a higher level of environmental

³Agreements on EDTA water pollution and waste batteries in Germany, energy efficiency in the ceramic industry and soil clean-up at petrol stations in the Netherlands, the River Meuse contract and the Wallon cement industry agreement in Belgium and the Alcoa zero discharge agreement and EPA 33/50 programme in the USA.
protection compared to the situation without, for example, a VA. It found that the performance of the agreements measured against their own targets was generally positive with over three-quarters of the agreements at least partially meeting their targets. However, it suggested that only a third of the agreements had ‘ambitious’ environmental targets when compared with the technical potential for environmental improvement. Against this potential, the agreements generally scored low, not coming close to technically feasible performance levels. There was no evidence that agreements were faster in reaching results than legislation, with an average negotiation time of three to five years. However, under certain preconditions VAs did precede, prepare and implement regulation, ensure compliance and occasionally reach higher environmental standards than those legally required.

A substantial lack of analysis on the costs and benefits of joint approaches and VAs was revealed from the cases. Theoretically, it was found that it is highly improbable that agreements would be more cost effective, and, if they were, this would be under very restrictive conditions. Practically, it was found that most approaches were chosen without comparing the costs and benefits of alternative instruments. Partly as a consequence of this, no evidence was found to support the hypothesis that environmental agreements are more cost-effective than other instruments. It also suggested that it is unlikely that agreements can go further than operationalizing no-regret measures, which do not damage company financial interests. Therefore, more ambitious environmental results may only be realized if incentives such as public recognition of achievements are used.

The project also concluded that most agreements were negotiated and conducted without third party stakeholder participation. National agreements tended to be exclusively negotiated between government and industry with active public participation limited to local and neighbourhood agreements. However, there is little evidence that public participation ensures a more successful agreement unless public or consumer action is necessary. In such instances the involvement of the groups needed to ensure the successful implementation of an agreement in the negotiations can be rewarding. However, it was also found that public information about agreements and monitoring results can have an important function as public awareness can pressurize parties to fulfil their commitments.

More broadly, it was found that national parliaments have played only a minor role in validating agreements. Such involvement occurred mostly where the VAs ran parallel to legislation. This raises doubts about the legitimacy of joint approaches and VAs, particularly when they are used instead of legislation. Governmental opinions more generally were diverse, and not all authorities were able to accept the instrument. Environmental organizations were more sceptical still, believing that the objectives of VAs were not far reaching enough or would not be achieved. However, even agreements lacking ambitious targets were regarded by environmental organizations as positive to some extent because they did initiate dialogue between stakeholders. VAs were generally found to be very positively received by industry and only in one case was legislation preferred due to problems with free-riders.

The project found that VAs were mainly adopted and applied on an ad hoc basis with only the Dutch agreements being explicitly part of a broader framework of government environmental policy. The other cases were generally ad hoc reactions to particular problems that were associated with the presence of political preferences for non-regulatory instruments. As all the agreements functioned in combination with a mix of other policy instruments, no conclusion can be drawn about effective policy mixes as the effectiveness of each agreement strongly depends on contextual parameters. A general rule is that agreements must be accompanied by credible threats of alternative means to achieve similar environmental results such as introducing regulatory mechanisms or economic incentives.

The findings also suggested that the strengths of agreements in a particular situation should complement the weaknesses of other tools and vice versa. This implies that the potency of VAs differs according to the situational context, and that the strengths and weaknesses of other policy instruments need to be taken into account. Combining VAs with other policy tools does not necessarily lead to a higher environmental effectiveness, however. Whilst a VA can fulfil a
number of functions, policy-makers need to ensure that the characteristics attributed to joint approaches in each individual case are realized. VAs that function as only communication and awareness raising tools have different characteristics from those implementing legislation.

Finally, the findings indicated that agreements appear to be an unsuitable instrument for negotiating and setting general environmental objectives, which should be set by legislation to ensure targets are not lowered during negotiations (see for example Biekart, 1995; Jenkins, 1995). There were also associated concerns about the legitimacy and accountability of joint environmental policy-making and VAs related partly to the target setting process and partly to the ability of different social groups to scrutinize the performance of agreements in practice. In this respect, the project suggested that reporting systems such as the proposed EU Polluting Emissions Register (PER) would be useful when scrutinizing emissions reductions and judging performance.

### POLICY IMPLICATIONS

A number of studies have proposed parameters that might secure or promote the environmental effectiveness of VAs (see for example Bastemijer, 1994; Ingram, 1996; European Commission, 1996); EEA, 1997; UNEP, 1998). The JEP and ‘New instruments for sustainability’ studies contribute further to these dimensions by testing these parameters against a wealth of sectoral and national case studies whilst also evaluating the effectiveness of the joint approaches studied. A synthesis of these studies provides a framework that can be used as a checklist both for developing joint approaches and for evaluating their effectiveness (see Table 1). The parameters differentiate between the ‘content’ and the ‘context’ of the approach. These parameters can also be seen as ‘conditions’ for effectiveness, and there appears a higher chance that both the policy process and the outcome from that process will be more environmentally effective, and possibly more socially acceptable, if these conditions are applied.

When VAs are assessed against these criteria, a number of generic conclusions can be drawn that are relevant to policy makers from government, to decision makers in industry and to other stakeholders and environmental organizations.

(i) The emergence of joint approaches is strongly dependent on the broader political and institutional context. While joint
approaches may develop as a consequence of either deregulatory philosophies or ideologies that favour partnership and open dialogue between government and industry, support from either of these standpoints alone is not enough for joint approaches to develop.

(ii) A consensus-oriented policy style and a general sense of trust and reciprocity between public and private actors appear to be important conditions for successful joint approaches.

(iii) Well organized sector/branch associations are an important pre-condition for the success of joint approaches. A limited number of cohesive sector organizations that represent a high proportion of the individual companies within the sector can help to avoid free-riding and encourage trust between members and the association involved in joint policy-making. Joint policy-making itself can stimulate sector organization.

(iv) To build consensus, joint approaches should bring together all of the actors directly involved in the problem. Traditional and/or formal government–industry relations, such as those founded in corporatist structures, may act as a barrier to establishing such pragmatic links.

(v) While involving third parties in joint approaches to policy-making can help to build consensus, it can also lead to escalating conflict. To avoid this, it may be appropriate to limit the direct involvement of third parties in the policy-making process itself whilst ensuring third party access to the information about the process, content and results of joint approaches. In this way the legitimacy of joint arrangements can be enhanced.

(vi) Although legislation can facilitate or enable the effective development of joint approaches, legislation may also neutralize the advantages of a joint approach, for example by restricting flexibility and undermining open government–industry relations.

(vii) The presence of appropriate performance measures and monitoring mechanisms is essential. Both goal setting and goal achievement should be monitored. Risks in goal setting negotiations include ‘re-interpreting’ and reducing general policy objectives to the specific targets and deadlines. Highly political subjects also risk goal shifting during negotiations. Given these potentialities, and the relative novelty of the instrument, evaluation is critical.

(viii) All of the case studies indicate that many specific as well as generic factors are crucial to the success of the approach. Whilst it is difficult to prescribe the specific circumstances of each case that may affect the success of the policy approach, they must be considered.

CONCLUSIONS

A new method of policy-making that may be a complement to or even in some instances a substitute for the application of economic and legal instruments is emerging that could transform the relationship between government and industry from what is commonly an adversarial relationship to a new more co-operative and consensual relationship. However, this new joint approach to policy-making can also create a new arena for contest in the policy process if it is not well managed. This interesting move can be productive at a regional, national and EU level, with case studies indicating that environmental policies can be more effective if jointly made, but these benefits may only occur under certain conditions relating to the political, cultural and institutional context for policy formulation and implementation. The effectiveness of joint approaches also depends on critical issues relating to the design and content of the eventual agreements. Where these parameters are ignored, joint approaches to policy-making can restrict the effectiveness of environmental policy and undermine public confidence in the initiatives of both government and industry.

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