

# NGOs and the European Climate Policy

## A case study of International Environmental Governance

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### Abstract

In studying international environmental governance, the case study of climate NGOs and their relation to, and impact on the European Union's climate policy is used to demonstrate the growing importance and influence of civil society. After demonstrating the existence of a climate change regime the role of the EU in this regime is assessed. It appears that the EU is showing leadership in the international negotiations and is keeping the process going. The role of climate NGOs is considered important in this. While NGOs should not try to replace governments, they can indeed complement them by keeping on the pressure, by providing them with accurate data and on what is going on in people's mind, and even come up with proposals. In this way, climate NGOs can in an informal alliance with the EU institutions and the member states try to deal with a 'System Failure'. In this system approach, NGOs help bridge some of the democratic gaps and bring politics closer to what people think is important. While getting involved in this process, NGO will try to work together and combine their forces by forming networks; primarily with other NGOs, but there are also possibilities to co-operate with business and even governing institutions. These different relationships can lead to interesting ideas. The EU and its institutions are seen as a good example, where one tries to involve as many stakeholders as possible, each with their own capacities and interests. Looking at the commitment of the EU towards a maximum of 2°C rise of temperature indicates a continuing influence by the NGO community.

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### Introduction

The case of NGOs and the European climate policy will be a good case to show the existing tension on the continuum and the interaction between governance and government on the international level.

Before, there was not always much attention for NGOs. This lack of attention can be found in a number of ideas and presumptions spread around about these NGOs. They are not considered to be as powerful as states are, due to the lack of resources, their inability to mobilise force,... (Newell 2000) State centred political thoughts, like the realist approach, but also the classical regime-theory, do not accept NGOs as possible actors or simply ignore them; especially in matters of 'High Politics' and power games: *"...with some exceptions their effect either on capabilities or on objectives is likely to be minimal, and in no way can they be seen themselves as significant actors."* (Willems, cited in Newell 2000, p.3) Of course, policy and habits change, but as Newell (2000) claims that in a way it is difficult to study NGO influence with old paradigms (in this case the concept of regimes) if (some of) the NGOs are in fact trying to transform the old ideas into totally different ones. The fact that he refers to the 'inter-state bias' in regimes and the fact that NGOs can condition state preferences is one of the reasons to try and fit NGO in the scheme of international governance. Several authors have demonstrated in a complementary way the influence of NGOs in the UNFCCC process (see Arts, 1998 & Corell and Betsill, 2001). Arts did not identify a direct impact on the convention's text, but he does recognise an indirect influence in Art.4.2 (commitments), and claims that *"without the interventions and pressure of NGOs, the outcome would probably have been weaker"* (Arts 1998). NGOs

continued their efforts after the signing of the treaty (1992-1995) and impacted on the AOSIS (Alliance of Small Island States) proposal (an important step in the run up to Kyoto Protocol), the Joint Implementation Pilot Phase and the Berlin Mandate, which led to the Kyoto Protocol. (Arts 1998) Corell and Betsill (2001) apply an analytical framework to the Kyoto Protocol negotiations. They come to the conclusion that there was a moderate NGO influence.

## Influence

### ***Influence or Power:***

When dealing with lobbying processes and actors trying to influence other actors... it is important to have a clear understanding of what is meant by this. Power and influence are two concepts closely related to each other, but can be used in a number of ways. Political power refers to a more or less permanent ability to influence policy outcomes, whereas political influence refers to an episodic effect on decision-making (Arts 1998). While arguing for the need of an analytical framework (as described earlier), Corell and Betsill (2001) also see the need of clearly defining "influence". One needs to realise that in the area of international environmental governance, states have the decision-making power over both contents of decisions and over procedural issues. This makes it possible to distinct clearly between state power and NGO influence. It means that, in general, NGOs and governments are set against each other. Though, they should not always be considered as real adversaries. Kellow (2000) even identifies a 'symbiotic' relation between NGOs and the intergovernmental system.

A way of defining influence could be: *"when one actor intentionally transmits information to another that that alters the latter's actions from what would have occurred without that information"* (Knocke, 1990, cited in Corell and Betsill, 2001, p. 87)

While Arts (1998) comes to interesting conclusions, the focus will be on the analytical framework used by Corell and Betsill (2001) for analysing NGO influence in the Kyoto Protocol negotiations. The authors test their model in comparing the negotiations on the Desertification Convention with those on the Kyoto Protocol. Though, in this paper the framework is only used in determining influence in the context of the Kyoto Protocol, it seems to be an interesting exercise to extend the application to other fields of policy, even outside the scope of environmental policy.

## ***The framework:***

Coming back to the framework, it looks at 3 aspects or 3 types of evidence regarding NGO *participation*: activity, access to negotiations and resources. This way it deals with the first part of the definition: intentional transmission of information. Still, the question remains whether this strategy has an effect, and it needs investigation to see whether this information leads to change in behaviour on the side of governments.

Corell and Betsill (2001) argue that by using process tracing and counterfactual analysis it is easier to elaborate the causal mechanisms between NGO participation and influence and they also find it important to consider other actors with similar goals. Process tracing requires building a logical chain of evidence linking NGO participation with their effects. Counterfactual analysis comes down to imagining the negotiations without NGO participation, through thought experiments and interviews with participants.

Before applying the framework, it is important to mention that in the phase of agenda setting NGOs have also been considered as important (Newell 2000; Schoeters 2002; Singer 2002). *Agenda setting* can be considered as a broad issue, as for every meeting an agenda needs to be set. Agenda setting is in fact a powerful and important moment in the process. If an issue is not put on the agenda, 'non-decision making' (Newell 2000), it will not be possible to discuss this.

According to Oberthür and Ott (1999) NGOs can influence government actions by providing information and advice, making policy recommendations and sometimes by direct lobbying. The question remains to what extent. Therefore, the framework is very welcome.

## ***Applying the framework:***

While individually the indicators do not point specific to levels of influence, on an aggregated level the set of indicators allow to determine a high, moderate or low level of NGO influence. (Corell and Betsill, 2001)

When Corell and Betsill (2001) apply the framework on the Kyoto Protocol and the Desertification Convention's (UNCCD) negotiations they conclude that "*while NGOs exerted significant influence over the UNCCD process, they only had moderate influence in the Kyoto process*". On the Kyoto process this conclusion is supported by other analysis as well. Next we complement the conclusions drawn by Corell and Betsill with other contributions in the field of NGO influence in the climate change negotiations.

*Framework for analysing NGO influence in International Environmental Governance (cells contain examples of questions researchers may ask): (Corell and Betsill, 2001)*

<b>Research tasks: Gather evidence of NGO influence (2 dimensions)</b>		
Triangulation by	<b>1) Intentional transmission of information</b>	<b>2) Behaviour of other actors</b>
<b>Data type</b>	<p><i>NGO participation</i></p> <p><i>Activities:</i> What did NGOs do to transmit information to decision makers ?</p> <p><i>Access:</i> What opportunities did NGOs have to transmit information?</p> <p><i>Resources:</i> What sources of leverage did NGO use to transmit information</p>	<p><i>Goal attainment</i></p> <p><i>Outcome:</i> Does the final agreement contain text drafted by NGOs?</p> <p>Does the final agreement reflect NGO goals and principles?</p> <p><i>Process:</i> Did negotiations discuss issues proposed by NGOs (or cease to discuss issues opposed by NGOs)? Did NGOs coin terms that became part of the negotiation jargon?</p>
<b>Data Source</b>	<p><i>Primary texts</i> (e.g. draft decisions, country position statements, the final agreement, NGO lobbying materials)</p> <p><i>Secondary texts</i> (e.g. ECO, Earth Negotiations Bulletin, media reports, press releases)</p> <p><i>Interviews</i> (government delegates, observers and NGOs)</p> <p>Researcher <i>observations</i> during the negotiations</p>	
<b>Research Task: Analyse evidence of NGO influence</b>		
<b>Methodology</b>	<p><i>Process tracing</i></p> <p>What were the causal mechanism linking NGO participation in international environmental negotiations with their influence?</p>	<p><i>Counterfactual Analysis</i></p> <p>What would have happened if NGOs had not participated in the negotiations?</p>

### ***NGO influence in the climate change negotiations:***

NGOs were clearly present at negotiation sessions as they coordinated their activities. Also other actors have recognised the presence of NGOs. NGOs have joint forces and have coordinated their action and to a certain extent their resources. In this way, they had also more access (either formally or informally) to the negotiations.

In the case of the climate negotiations this happens under the umbrella of the Climate Action Network. (See Duwe 2000 for more background). NGOs have been very active in developing alternatives, in lobbying delegates and in communicating their message. Very 'notorious' at climate negotiations is ECO: the negotiations newsletter of the NGOs published regularly at international environmental

conferences with an overview of the latest negotiations proceedings and setting the objectives of the NGOs (Oberthür and Ott 1999; French 1996). It is recognised, even by official delegates, to contain valuable information and to enhance the transparency of the process (Newell 2000). ECO is part of the tactics by NGOs in their 'corridor lobbying' (Newell 2000) as it is very difficult to get in officially. In pushing for progressive decision-making during world climate change negotiations the members of CAN vote for the country that made the 'worst' input to the negotiations. The three 'winners' then get the 'Fossil-of the Day' prize. At the end of each negotiation session the overall laggard is determined by summing up the daily awards. This event has become an expected and recognised event. Some countries even try to lobby CAN to either give a 'fossil' to another country, or plead that they do not get one themselves. (Anon. 2001)

Still, NGOs are sometimes allowed to make formal interventions, though, this possibility is limited and depends on whether the Chair allows them. But they can also attend informal contact group meetings, conduct special 'side events' and discuss the issues with national negotiators in the corridors. (Carpenter 2001) In fact the number of NGO statements has grown over the last couple of years. Personal networks have developed, and NGOs meet formally and informally with different parties. Getting a foot in *the negotiations* has been very crucial for NGOs. They then can use information gained at the formal international meetings and the official statements made by government representatives to point these officials on their made commitments and push governmental bodies in the face of the public to come forward with what was said to be done (Haas et al. 1995). Setting up *strategic contacts* with the UNFCCC secretariat is important and does happen too. The secretariat can provide information on the process, but also can try to incorporate the NGOs opinions; in this way NGOs can try to exert also some influence on governments via the secretariat (Haas et al. 1995).

In between negotiation sessions, NGOs continue their contacts and lobbying.

So, first of all it is reasonable to say that NGOs have had and continue to have influence on the climate negotiations. Further, we have a closer look at the climate change regime and the role of the European Union in this regime. This will lead us to the conclusion that the specific role of and circumstances in the EU, both internally as in the regime, provided NGOs with a certain opportunity.

## **The Climate Change regime**

A treaty (convention – multilateral agreement -...) is a legal instrument stipulating rights and obligations, a regime is a social institution wherein stable patterns of behaviour result from their compliance with certain norms and rules, whether these

are laid down in a legally binding instrument or not (implicit or explicit). At the same time, regimes clearly differ from organisations or institutions in the way that you can only attribute activities and a legal personality to an organisation. These two intersect where the latter provides the procedures for the former. This means that even when you have a treaty and an organisation this doesn't mean that you automatically can speak of a regime: therefore you need the parties to demonstrate rule-consistent behaviour – comply with the rules. This is the challenge the international state system is facing today. Is the system able to produce rule-consistent behaviour or is the system failing?

The Climate Change regime consists of two treaties. The United Nations Framework Convention on Climate Change (UNFCCC), stating the ultimate objective (Art.2), the principles (Art.3) and general commitments (Art.4), and the Kyoto Protocol (KP), setting specific rules and mechanisms for the Annex I countries<sup>1</sup> in the form of emission reduction objectives. With the UNFCCC and the subsequent Kyoto Protocol, climate change got a legal framework. But, you do not set up a regime with only a treaty and a protocol. The ratification of the KP was the next important step for the newly born climate change regime. And while the conference where this paper is being presented is happening, the first Conference of the Parties serving as Meeting of the Parties to the Kyoto Protocol (COP/MOP) is meeting in Montreal, Canada. This event acknowledges the fact of the climate change being a regime. On the other side, the United States is not participating in the regime, in this way possibly jeopardising stable patterns of behaviour. Still, the United States have shown a stable pattern of behaviour in continuing to decline KP ratification. Meanwhile, the other parties to the KP have continued. So, when acknowledging the Climate Change regime it is important to notice that the regime is still bound to undergo changes and to recognise the ongoing process: from the build-up of the regime over several decades (from the first scientific findings and theories to the establishment of the IPCC and the signing of the KP), the protocol has entered into force. The first task of the COP/MOP will to endorse the Marrakech accords and to set the compliance rules into place.

## EU Leadership

While the EU slowly developed international leadership... starting more or less at Stockholm 1972, and together with internal expansions of competence... *by the early 90's, it was becoming apparent that the US was fast abdicating this role, KP rejection, role in CBD,... which for the EU provided both a challenge and an enormous opportunity* (J. Vogler, 2005).

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<sup>1</sup> Known as the group of industrialised countries. For a clear overview of the history of the UNFCCC and the Kyoto Protocol: Oberthür & Ott, 1999

*Formal involvement in the extensive network of international environmental institutions is the first and most evident way in which the EU contributes to GEG, although here the immediate problems arising from the singular characteristics of the Union as a body which is neither a state nor an orthodox international organisation. (J. Vogler, 2005)*

The EU already engaged early in the process and demonstrated leadership in the Protocol's negotiations by achieving its commitment to stabilise CO<sub>2</sub> emissions in 2000 at 1990 levels. The growing importance and having to deal with the environmental interdependence of states dealing with trans-boundary problem made the EU, having more and more competence in this field domestically, to extend the scope outside the Union. *"The implicit desire to lead other countries can be derived from various documents, but this desire has over the years become more and more explicit and is very evident in the area of Climate Change."* (Gupta 2002) With the ratification of the Kyoto Protocol, the Union remains committed to Climate Change.

The European Union is fully committed to the Kyoto Protocol and the Marrakech Accords. The EU accepts the strong scientific evidence by the IPCC, unlike the USA, and calls for global reduction in emissions of 20-40% on 1990 levels by 2020 and total cuts of 70% in the longer term. As the EU is responsible for 15% of the world's greenhouse gas emissions but has only 5% of its population, it feels that it needs to take the lead in reducing emissions in a realistic way, at the same time pressing for international agreement on more ambitious reductions. (European Commission 2002) The EU also adopted the 6 EAP, the ECCP and at the European Council in Gothenburg (June 2001) declared that Climate Change is a major priority of the EU's sustainable development policy.

In June 2001, at the European Council in Gothenburg the EU claimed that at COP 6+ (Bonn 2001) *"it (the EU) has been a determining factor in the negotiations but also in the firm support for the multilateral approach as the preferred way to cope with global environmental threats."* (Gupta 2002) This 'green' awareness is recognised as being an important force in EU leadership in Climate Change. Still, some other factors have played a complementary role in materialising EU leadership.

The preliminary results of the proceedings of the Kyoto Protocol are the Marrakech Accords, giving detailed context to the protocol, making it finally ratifiable (Legge and Egenhofer 2001). The 'Buenos Aires Plan of Action' (BAPA), put forward at COP4 (Buenos Aires), was scheduled to present the final deliberations at COP6 (The Hague) (Vrolijk 2001). But the parties 'failed', even though president (of the COP) Pronk used rather unusual techniques (Dessai 2001; Egenhofer and Cornillie 2001) – in the line of what Estrada managed before. It took an extra COP, COP 6+ (Bonn) to finalise the 'Bonn Agreement' and it was at COP7 (Marrakech) that the parties resolved the details and came out with the Marrakech Accords. Meanwhile,

the USA had stepped out of Kyoto earlier that year in March, claiming it is unfair. (Vrolijk 2001)

*"The negotiations were driven by the facilitators appointed by the President, the EUs flexible stand, the political will of G77 & China, and (from an EU perspective) the firmness of the Umbrella Group countries<sup>2</sup>."* (Vrolijk 2001) Especially Russia, Canada and Japan were very firm; they wanted to make implementation as cheap as possible. In the end most parties welcomed the result. (Legge and Egenhofer 2001; Vrolijk 2001)

Negotiators were very ambitious and optimistic in the end; like Margaret Beckett, Britain's Environment Secretary, said: *"This is the first multinational environment agreement with teeth, and it will make an enormous difference in reducing greenhouse emissions."* (Browne 2002)

### **Lucky circumstances:**

Some *lucky circumstances* were important (Singer 2002; Racquet 2002; Oberthür and Ott 1999). Demographic factors made that the stabilisation was attainable in a business-as-usual scenario; the German unification created the 'wall-fall' profits; the UK switched from a dominance of coal to gas fired electricity plants; Luxembourg shut down its steel works. These measures were primarily economical interesting, and turned out to serve the EUs climate policy rather well. Also the negative position of the USA made it easier for EU leadership. It is believed that these factors made it easy for the EU to show leadership (Singer 2002) or, they just had to take the opportunity, with the USA backing out (Racquet 2002).

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### **Internal capacities:**

The fact is also that the services of the European Commission dealing with climate change *"hardly have the capability or authority to engage in extensive environmental diplomacy"* (J. Vogler, 2005) This means that the European Commission has a kind of open door policy. With the special attention the Commission is paying towards climate change - part of their leadership role is to show they are serious about climate change also when it comes down to taking

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<sup>2</sup> The Umbrella Group is the successor of the JUSSCANNZ Group in the post-Kyoto period (Australia, Canada, Iceland, Japan, New Zealand, Norway, the Russian Federation, Ukraine and the USA). They encompass all major greenhouse gas emitters except for the EU, and is in fact an informal grouping of interests, not very unison. (Oberthür and Ott 1999) Still, they are in general quite sceptical about Climate Change and the way to deal with it.



measures domestically – and the attention NGOs have for the issue, it seems that NGOs and DG Environment have developed a good relationship.

### **NGOs and the EU:**

In looking at the role of the World Wide Fund for Nature (WWF) (a member of the Climate Action Network (CAN)) and the other NGOs in helping the Berlin Mandate to emerge, the position of NGOs in the climate negotiations in relation to the EU will become clearer. According to Long et al. (2002), WWF together with other NGOs (Schoeters 2002) helped in drafting a paper at COP1 (Berlin) that was instrumental in launching the Berlin mandate. In the process, they managed to split the OPEC-countries from the other G77 countries and allowed for the hesitant EU to join as well. The EU tried to reach consensus for common and co-ordinated policies and measures, in contrast with the USA, who only wanted to talk about legally binding targets, not about co-ordinated policies; WWF backed the EU completely on their position on policies and measures (Long et al. 2002). A study, ordered by WWF, showed that the EU could reach a 14% reduction on the basis of extending renewable energy and cost-effective measures and boosted WWF credibility in parts of the business community and the climate negotiators. The same research-team from Utrecht was later appointed by the Dutch presidency and presented similar results; this also initiated the EUs burden sharing scheme. Meanwhile, in 1997, the EU also adopted a strategy for Kyoto, presenting a 15% emission cut by 2010. This helped the EU to move the other players towards more ambitious targets in the final protocol. Long et al. (2002) claim that *“... absolute emission-reduction targets in Kyoto were only successful because the EU had backed their proposal with policies and measures which were reasonable and were widely supported by WWF and other NGOs.”*

While the EU tried to uphold the lead in the negotiations, NGO's have been instrumental, and backed the EU up in a way, to push for a reduction target and to focus mainly on policies and measures (PAM's) in the energy sector and not to include sinks (Long et al. 2002; Singer 2002)

NGOs have good contacts with DG Environment and have always have good contacts with the Environment Commissioner Walström and continue to do so with Commissioner Dimas. Both parties are very much engaged towards climate policy and also the other EU institutions have backed up the 2°C target<sup>3</sup> (European Council 2005; European Commission 2005; European Parliament 2005). NGOs have managed to build a good relationship with DG Environment on the subject of climate change. This can be found in their shared interest, but also in their non-national or global perspective. NGOs also provide a link with civil society in the

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<sup>3</sup> The 2°C target means that the objective should be to keep the rise of global average temperature under 2°C in order to limit the effect of climate change to a manageable level.

European Union. In this way they are the finger on the pulse for the people working in Europe.

## NGOs and System Failure

The special relationship NGOs have with certain services in the European Commission can serve as an example to other Directorates (DGs). NGOs can provide valuable services to these DGs. If one takes a look at the nature and objectives of NGOs this becomes clear.

### ***Nature and objectives of NGOs:***

Haas et al. (1995) recognise that *“NGOs operate on a complex playing field with multiple loyalties and blurred jurisdictions, often wielding greater influence than students of international politics have come to expect from actors who are weaker, according to conventional criteria, than their corporate and state adversaries.”* French (1996) and Breitmeier and Rittberger (1998) also believe that it is time to pay more attention to the growing role of non-state actors, an outgrowth of two of the most fundamental changes in the world since the United Nations was created: *“the emergence of environmental degradation on a scale that threatens the health of economies and the security of nations, and the development of a burgeoning civil society around the world”* (French 1996). If environmental NGOs find a way to deal with these complex issues, they will indeed be able to exert a certain amount of influence on ‘the system’.

In defining civil society, Rittberger et al. (cited in Breitmeier and Rittberger 1998, p8) refer to three relevant aspects. The aspect of *uncoerciveness* – implying a degree of autonomy and the absence of absolute government control –, *shared basic values and identity* and *human association* - the importance of networking by different groups -, which is not always evident. Climate NGOs operate in a distinctive way, especially in the European context, like Brenton (1994) puts it: *“International environmental discussions are uniquely distinguished from other types of international business by the presence and involvement of these large non-governmental pressure groups.”*

### **a. Global perspective**

In dealing with global problems, *“NGOs benefit from the fact that they are freer than are national governments to represent the global interest, as they are unencumbered by any mandate to promote purely national goals, or to protect sacred political cows.”* (French 1996) While Newell (2000) in the case of Climate

Change sees NGOs as confronted with a lack of political will; it is demonstrated that the EU is politically committed to Climate Change. This will be a big opportunity for the NGOs. Especially when one takes into account *“their intimate involvement in constructing the provisions of a regime”* and their *“ability to exploit the connections between domestic and international politics”* (Newell 2000).

Though, while NGO resources and access to political power are considered pale in comparison to the forces driving environmental destruction (Newell 2000), environmental NGOs in general can be seen as a societal response to the erosion of democratic participation and accountability in internationalising political processes (Breitmeier and Rittberger 1998), also referred to as ‘System Failure’. Breitmeier and Rittberger (1998) see the dramatic increase of NGO activities outside formal international political processes as evidence: NGOs have set up international campaigns and criticised states or international corporations...

NGO loyalties and objectives are clearly set by themselves and shared in a general way: *“To defend, uphold and promote a public interest that would otherwise have no voice, and has no economic value attached to it – the environment. (NGOs) are the only sector of society which undertakes this role in an impartial manner, free of nationalistic concerns, the constraints of short-term legislative cycles and political party vested interests.”* (Green G8 2001) Environmental pressure groups are also recognised as trying to improve the transparency of international meetings, based on the assumption that the pressure on politicians will grow with greater accountability to domestic constituencies. (Newell 2000) According to Grubb (1999) the real task for NGOs is to *“establish the moral context for globalisation of economic and environmental policy.”*

## **b. Public awareness and watchdog**

Climate NGOs, and NGOs in general do not need to focus only on influencing the official process in a direct way. In fact, it was already recognised that public awareness plays an important role, as political leaders are elected by the public directly or appointed by these elected persons (indirectly) - in Europe and other ‘democratic’ countries anyway. Thus, they will need to take into account the desires of their public and the fact that public opinion can be an important driving force of international action (Newell 2000). Therefore, it will be equally important for NGOs to work on public awareness. The easiest way to do this is probably via mass media. (Newell 2000) But, engaging the public in the case of Climate Change is particularly challenging because one is dealing with a rather abstract and complex concept, and you need to deal with a time lag in the effects. Direct action will not have direct results, but not acting now will make the problems even bigger in the future. One will need differentiated responses in time and region and it is difficult to attribute the causes to a single or limited number of culprits (Gouch and Shackley

2001) (in fact is everybody partly responsible, but especially the highly consuming and energy wasting 'Western' societies).

*Public awareness* forms the support for NGOs and the support from the public is one of their basic weapon in fighting reluctance to act in the political arena; as Carpenter (2001) acknowledges that the effectiveness of NGOs in the climate negotiations is "...reflected in their ability to raise and promote discussion of difficult issues such as equity, lend a voice to possibly forgotten constituencies, and enrich the discussions by providing thoughtful analysis and substantive research, and alternative approaches, all of which will be necessary to achieve an effective agreement."

*Public awareness and pressure* and the growing numbers of 'green' ministers in the member states have clearly made a difference in comparison with other countries or regions. In the USA or in the South those 'green' ministers are not present and this makes it much more difficult for NGOs to be heard (Meadows 2002; Racquet 2002; Schoeters 2002).

### **System Failure and NGOs:**

NGOs do not need to stay outside the political process. Haas et al. (1995) see NGOs as "...a source of policy innovation..." and "...an instrument of diffusion of international norms and practices..." and see them interact with international environmental institutions in complex ways. Just like Breitmeier and Rittberger (1998) witness "a change of roles which environmental NGOs play within formal international political processes." which leads to an increasing participation in treaty based decision-making processes.

Have NGO forced their way in the process?

#### **a. system failure**

One could turn the question around. Or is the system failing?

System failure could be described as a failure of the state to represent the people in a balanced and sustainable way, as could be expected of the state, as it is expected of the state (as it is accepted in Western social democracies) to protect the people from market failure (Turner 1993). Governments are believed to intervene in the market to protect the community from negative external effects, caused by the market. These negative external effects are caused by the production of goods and services, where profit is made and where the resources are not paid for by the company but by society. Governments fail because they do

not always act in the interest of the community, or because they do not have access to the right information.

It is argued that NGOs can be part of the solution to this failure. On the international level, the strong element of NGOs lies in their global perspective. In this way, and especially in the field of (trans-boundary and global) environment policy, NGOs are to be considered as a manifestation of civil society or a watch dog. NGOs focus on the issues from a non-national perspective.

In fact the solution of the question is to be found somewhere in the middle; better on a continuum. The success of NGOs to move closer to power and have more influence on the process often depends on the issue at stake and the strategy the NGO applies in a specific case. External factors or sudden events can also have a significant impact and the fact that certain issues get more attention than others can be found in the urgency, the impact and the perception. The question is how NGOs can react to this system failure.

The fact that civil society needs separate representation (in the form of NGOs) on certain issues, like for instance environmental policy and sustainable development is remarkable. One could expect the democratic system to reflex the ideas of society. It is at this level that the failure should be considered. It seems that the current state-system has trouble dealing with trans-boundary environmental problems. Of course NGOs have it easy in that they do not have to run the whole state.

## **b. Confrontation or cooperation**

Jordan et al (2005) recognise the decline of central government to steer society, and they identify 4 ways of interaction: co-existence – fusion – competition & replacement. These are different stages on the continuum between cooperation and confrontation.

Convincing the countries and their delegates of the NGO point of view is the NGOs main objective. In dealing with these governmental delegates, it is in deed possible to talk on a technical level. In most cases this is even essential, as the debates have gone past commitments and believes and turned into technical discussions on how to mitigate emissions and in the worst case on how to adapt to Climate Changes. These decisions can change a lot, and all the stakeholders (countries, civil society, industry, energy, transport,...) are trying to get involved to protect as good as possible their interests. Otherwise, NGOs can try to co-operate in order to at least have some issues (most important for NGOs) resolved. Still, these means that they will participate in the bargaining process, and one can wonder whether it is

preferable for NGOs to start compromising. Of course, it is naïve to expect all your demands to be granted at once and results will have to be made step by step.

This can lead to a number of *strategic alliances*; one alliance being more clear than the other and both between NGOs (for instance the Climate Action Network) and between government and NGOs (AOSIS and FIELD<sup>4</sup>). These alliances give NGOs the opportunity to exert influence on the decision-making process in a more efficient way and at an earlier stage and thus enables NGOs to come more prepared to the negotiations (Take 1999).

The *NGO dilemma* of, “on the one hand, being able to secure opportunities for influence within the given framework by engaging in co-operative behaviour, and, on the other, only being able to achieve qualitative changes that go beyond that framework by engaging in confrontational strategies” (Take 1999) will be a central issue in developing NGO strategies. This is also recognised by others like Diani and Donati (1999). When looking at the three big NGOs involved in climate change: WWF (World Wide fund for Nature), Greenpeace and Friends of the Earth, one clearly identifies clear distinctions in their individual approach. These organisations are of course networks of their own, active global, regional and national; each with their proper decision making: from grass-roots to central-led. This makes it in a way quite complex, but this diversity can also be seen as one of the strengths of the network (French 1996). In fact NGOs do not need to choose in between confrontation or cooperation. They can interact in different ways of cooperation amongst themselves and split tasks in campaigning.

Remarkable to see is that some governments even anticipate NGO and public reactions if they decide to pursue, or fail to pursue, particular course of action, because this could make them unpopular. In this way, NGO positions also can provide an incentive for states to make action; some official delegates even test their ideas with NGO representatives. (Newell 2000) From this perspective, it will be wiser for NGOs not to compromise too much and keep a firm stand towards their opinions; of course, they will need to present some more or less realistic idea in order for the delegate to be able to work with it. The dilemma is thus far from resolved.

The discussion is not about NGOs replacing the system, or the system swallowing NGOs and civil society as a whole. Therefore, the EU makes an interesting example, because it clearly serves as an example for the rest of the world. The case of European climate policy and the interaction with NGOs shows that NGOs can complement the state-system. *“Although NGOs have been quite successful in challenging states in international political processes dealing with environmental issues ... it is by no means certain that the frequency and strength of NGO*

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<sup>4</sup> The Foundation for International Environment Law and Development (FIELD) is an NGO which gives international legal advice to governments, non-governmental organisations, inter-governmental organisations and industry. (<http://www.field.org.uk/>)

*activities have already led to a power shift in favour of civil society anywhere..."* (Breitmeier and Rittberger 1998). Though, *"It is already widely recognised that NGOs are already playing an important part in helping to enforce the Climate Convention... and will form an integral part of the enforcement system that will ultimately enforce the Kyoto Protocol."* (Newell 2000)

## Conclusion

*The concept of governance is ... potentially capable of comprehending a whole range of actors and processes within and beyond the sovereign state, some of which, as regime theorists have reminded us, occur as shared understandings and shifting expectations (Paterson, Humphreys, et al, 2003)* And what is Global Environmental Governance ? Vogler (2005) calls it *"a synonym for international environmental cooperation; for the network of international environmental organisations and conventions and the spaces between them; defined in terms of multilateral cooperation and international organisations"*.

When we conclude, it is reasonable to say, while some parts of civil society are very combative in relation to the state-system and globalisation, that main stream environmental NGOs are aware of the fact that decisions are made by states. States have control over a number of resources and instruments, and are implemented under the co-ordination of these states. The relationship between NGOs and states will vary from NGO to NGO and from the state they are dealing with. Therefore, NGOs have to find a good approach for different circumstances. Sometimes, they can cooperate, but at other moments they need to express the voice of the people and be more confrontational. The fact that different NGOs with the same objective to protect the climate have so different tactics towards different governments is also seen as a strong advantage that improves their flexibility. Also, it is important to recognise that exerting influence often comes down to exchanging ideas on a personal level, though difficult to assess, this is a very important element in the process (Racquet 2002).

While states are the target for NGO action on the international level, *"governments have realised that they often gain from the activities of environmental NGOs within formal international political processes,..."* (Raustiala, cited in Breitmeier and Rittberger 1998, p.7). This means that relationships with governmental bodies, both formal and informal, will be a very determining element in the strategies of these NGOs.

The concept of a system failure seems to be too strong in the case of Climate Change. The case of the European Union shows that NGOs can have a specific relationship with governments and the institutions of the EU in this way resolving

important elements of the system failure. Yet, it is hoped that this case can show that there is a way out of this system failure.

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