

**Trading Places:
The US and EU in International Environmental Politics**

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INTRODUCTION

When environmental issues emerged on the international agenda in the late 1960s and early 1970s, the United States (US) was one of the strongest and most consistent supporters of international environmental treaties and agreements (Sands 1994). The US played a leadership role in the preparations for the 1972 United Nations (UN) Conference on the Human Environment and backed each of the major international environmental treaties adopted during the 1970s, including the 1971 Convention on Wetlands (RAMSAR), the 1972 London Convention on Dumping at Sea, the 1972 World Heritage Convention, the 1973 Convention on International Trade in Endangered Species (CITES) and the 1978 MARPOL Convention on Pollution from Ships. The US remained a leading supporter of international initiatives through the late 1980s, when it played a critical role in the negotiations that led to the Montreal Protocol

on Substances that Deplete the Ozone Layer. While the Member States of the European Union (EU),¹ subsequently ratified each of these treaties, America's leadership role was critical.

More recently, the political dynamics of international environmental policy have shifted (See Table 1). The EU has now emerged as the strongest proponent of the expansion of international environmental law (Sbragia and Damro 1999). It played a leadership role in the adoption of the 1989 Basel Convention on Hazardous Waste Disposal, the 1992 Convention on Biological Diversity, the 1997 Kyoto Protocol on Climate Change, the 2000 Cartagena Protocol on Biosafety, and the 2001 Stockholm Convention on Persistent Organic Pollutants. The United States, by contrast, has not ratified any of these international agreements. European political leaders were active and visible participants at the United Nations Conference on Environment and Development (UNCED) "Earth Summit," at both Rio de Janeiro in 1992 and Johannesburg in 2002, while the US came under strong criticism for its opposition to new global environmental policy initiatives at both international meetings.

Place Table 1 approximately here

This article seeks to explain why the EU replaced the US as an international environmental leader. Our focus on the EU and the US is a reflection the fact that these are the only two political entities with the capacity for exercising global environmental leadership (Vig and Faure 2004). Our central argument is that a synthesis of two perspectives, the first based on domestic politics and the second based on international regulatory competition, provides the most powerful explanation of why the US and EU have "traded places". This synthesis, which

¹ "European Community" is the legally correct term in reference to the EU's participation in international environmental treaties, even after the Maastricht Treaty changed the European Community's name to European Union. To avoid confusion, we use the term European Union throughout the article.

we term a 'regulatory politics' explanation,² suggests that the shifting stances of the EU and the US with respect to international environmental policies are a function of changes in the relative political strength of green constituencies in the EU and the US and associated changes in the economic interests of domestic producers.

The domestic politics perspective views international environmental policy as an extension of domestic environmental politics (Raustiala 1997). Just as a government's commitment to domestic environmental policy fluctuates along with the power of pro-environment forces, so too will a government's willingness to support international environmental policy regulations. According to this perspective, the increasing willingness of the EU to support international environmental agreements, and the increased reluctance of the US to do so, reflects the increase in political influence of green constituencies in the former and a decline in their influence in the latter since the beginning of the 1990s.

An analysis based on regulatory competition posits that a government's position on international environmental policy is primarily determined by the competitive interests of domestic firms (Desombre 2000). Thus, governments are more likely to support international environmental agreements when such agreements either advantage domestic producers in international competition or do not impose additional costs on them. Likewise, they are likely to oppose such agreements when the costs of compliance would place domestic firms at a competitive disadvantage. According to this perspective, changes in US and EU international environmental policies reflect differences in the competitive effects of the environmental treaties negotiated during the last three decades. While the agreements negotiated during the 1970s and 1980s either advantaged or did not disadvantage American producers, this was not the case for

² Raustiala (1997) uses the same term for a similar argument in a case study of the 1992 Biological Diversity Convention. See also Desombre (2000; 2005) for a similar perspective on US international environmental policy.

those agreements that have emerged on the international environmental agenda since the early 1990s. The latter have either advantaged or imposed fewer burdens on European producers compared to their American competitors. Hence the US has generally opposed these agreements, while EU has supported them.

These two perspectives are analytically distinct. Though both anticipate that the EU and US would, in broad terms, "trade places" as leader and laggard on international environmental governance issues since the 1990s, the two perspectives do suggest observable implications that differ from one another. For instance, if, in a period when environmentalists lack influence domestically, governments nevertheless support international treaties that provide domestic producers with competitive advantages, then this would indicate that regulatory competition is the driving force. Likewise, if governments faced with powerful domestic environmental lobbies support international agreements, even where these impose costly new obligations on domestic industries, this suggests that domestic politics rather than regulatory competition is at work. Given these differences, each perspective merits consideration in its own right.

However, ultimately we argue that the two arguments must be synthesized. Though they occasionally stand at odds with one another, typically domestic politics and regulatory competition merge as two sides of a coin. The stronger the domestic political influence of environmentalists, the more stringent are domestic standards and the more it becomes in the interests of business to support treaties that could impose those standards on foreign competitors. Similarly, the likely impact of proposed environmental measures on the international competitiveness of domestic industries will greatly influence the domestic politics surrounding the measures in question.

Before detailing our own explanation, we begin by showing that the leading arguments in the literature on state support for international environmental treaties, which focus on variations in wealth and post-materialist values (Roberts 1996, Roberts et al. 2004, Recchia 2002), economic and environmental cost-benefit analysis (Sprinz and Vahtoranta 1994) and “participation in world society”(Frank 1999), do not offer a convincing explanation of why the US and EU have traded places. We show also that explanations based on increasing US aversion to and increasing EU support for multilateralism fail to provide a convincing account of US and EU positions in international environmental treaties. We then present a ‘regulatory politics’ explanation for the trans-Atlantic shift in policy toward multilateral environmental agreements. In the final section, we conclude.

Leading Theoretical Approaches

There have been a number of efforts to explain national responses to international environmental agreements. One set of arguments focuses on a combination of wealth and post-materialist values. The logic here is that increases in wealth encourage the spread of post-materialist values, which inspire greater public support for environmental protection. This diffuse public support is in turn translated into a greater propensity to sign and ratify international environmental treaties. Roberts’ (1996) large-N, cross national study emphasizes that wealthier countries ratify more treaties, while Recchia’s (2002) study of advanced democracies posits that the prevalence of post-materialist values in the population is a powerful predictor of environmental treaty ratification. Greater wealth and higher growth rates are clearly associated with increases in environmental concern, and the development of ‘post-materialist’ values may indeed play an important role as an intervening variable (Scruggs 2003: 83-106). In large scale, cross-national

studies that encompass both developed and developing countries, differences in wealth provide a powerful explanation for variations in environmental treaty ratification. However, in comparing the US and EU, differences in wealth and post-materialism do not explain shifting positions on international environmental policy.

Quite to the contrary, the wealth and post-materialism argument would predict that the US remained the environmental leader, further outstripping the EU in its international commitments. US economic growth outpaced EU growth in the 1980s and pulled further ahead in the 1990s (OECD 2003), leading one to expect that the US should have become more supportive of international environmental agreements. As for post-materialist values, while Recchia (2002) finds a statistically significant correlation between post-materialism and support for international environmental treaties in his study of nineteen democracies, he measures post-materialist values at only one point in time, namely 1992, and thus is unable to capture the impact of changes in these values over time. Looking at the impact of value change, the US experienced greater gains in its levels of post-materialist values than most EU Member States during the 1980s, the very decade when the US surrendered leadership on international environmental policy to the EU (Scruggs 2003:106).³ Strong US economic growth and increased support for post-materialist values clearly has not translated into stronger support for international environmental agreements.

Sociologists of the social constructivist tradition have argued that national support for international environmental treaties is constructed by world society. This world society argument posits that national policy preferences are not determined by domestic interests, but are shaped by a 'world environmental regime' (Meyer, et al.: 1997) that constructs national

³ The major exceptions are the southern European countries that joined the EU in the 1980s and made great gains in post-materialism along with their rapid economic growth.

preferences. States seek to ‘enact’ legitimate behaviors expected of modern states, which in the field of environmental policy have come to include ratifying international environmental treaties (Frank 1999: 527-529). Frank (1999:534) finds that states with the densest linkages to world-society, measured in terms of memberships in international nongovernmental associations, “ratify significantly more environmental treaties.” We need not address the general plausibility of this argument in order to note that it cannot explain the question at the center of this article as its independent variables do not distinguish the US from the EU or its Member States. In terms of the variables Meyer, Frank and their colleagues employ, both the US and EU member states are equally ‘deeply embedded’ in world society.

Sprinz and Vaahtoranta (1994) propose an interest-based explanation of international environmental policy that focuses on an economic and environmental cost-benefit analysis. The general implication of their analysis is that a nation’s stance on international environmental agreements is affected by public perceptions of a nation’s environmental and economic interests. However, their definition of national interests, which combines indicators of ecological vulnerability with abatement costs, is problematic in several important respects. In the case of many environmental agreements, such as global climate change or biodiversity, the degree of ecologically vulnerability is politically constructed rather than objectively determined (Beck 1992, Breyer 1993). For example, in the case of biodiversity, Europeans clearly perceived themselves to be more vulnerable than did Americans, given the proximity of their major population centers to areas of agricultural production. But this perception assumes what has been most contested, namely whether or not agricultural biotechnology poses an ecological risk. In the case of global climate change, there is too much scientific uncertainty surrounding its environmental impact to determine whether Europeans or Americans are more “vulnerable.”

Also, as Sprinz and Vaahtoranta (1994:105) themselves admit, abatement costs may be shaped by linkages with international trade - first movers on abatement may, for instance, recoup costs by subsequently exporting abatement technology.

Even taken on its own parsimonious terms, the Sprinz and Vaahtoranta (1994) argument fails to explain crucial differences in US and European positions on one of the central cases in their study – the international treaty phasing out chlorofluorocarbons (CFCs). They define a nation’s “interest” in two ways: its “ecological vulnerability” to ultraviolet radiation - measured by its rate of skin cancer, and its relative abatement costs - measured by its intensity of CFC consumption. These two variables prove to be statistically significant. Thus, nations that have both higher rates of skin cancer (higher ecological vulnerability) and were less dependent on CFC production (lower relative abatement costs) were more likely to support the Montreal Protocol. However, their analysis struggles to explain US and European positions on the Montreal Protocol. American abatement costs were substantially higher than those of any European country, and its ecological vulnerability was only marginally higher than that of some European countries, such as the UK, France, Germany and Italy.⁴ Nevertheless, the US was the strongest proponent of an international agreement to combat ozone depletion, while those countries were reluctant participants.

Finally, many scholars of US and EU foreign policy would suggest that US and EU positions on international environmental issues are determined not primarily by concerns specific to the environmental policy arena, but rather by the US’s growing unilateralism and the EU’s embrace of multilateralism (Ikenberry 2003; Kagan 2004; Rabkin 1999, 2000). From this perspective, recent US opposition to international environmental treaties represents another manifestation of its defense of national sovereignty and increasing unwillingness to support

⁴ Add footnote.

multilateral treaties. While it is beyond the scope of this paper to explain the shift from multilateralism to unilateralism in US foreign policy, there is ample evidence that the US has become less supportive of multilateral treaties in the post-Cold War era (Huntington 1999, Prestowitz 2003, Malone and Fung Khong 2003). The US, which had championed multilateralism throughout much of the Cold War, has refused to sign and/or ratify a wide range of international conventions during the past decade, including the Rome Statute of the International Criminal Court, the UN Convention on the Rights of the Child, the Anti-personnel Land Mine Treaty and the Comprehensive Nuclear Test Ban Treaty. In each of these cases, the US was among a small number of nations that has not signed or ratified these agreements.. The one prominent exception to this trend involves the area of trade liberalization, where the US has continued to support multilateral agreements such as those that established the WTO and NAFTA. Significantly, the latter agreement did incorporate some modest environmental provisions.

If US opposition to multilateral environmental treaties in the 1990s stemmed primarily from its growing unilateralism, then we might expect the US to continue to pursue its environmental goals at the international level through unilateral means, such as trade restrictions or sanctions, or in international legal settings which it could control. And in fact, it has done so to a limited extent (Brunée 2004). For example, in 1992 Congress passed the High Seas Driftnet Fisheries Enforcement Act which allowed the US to restrict imports of fish and fish products from states engaged in driftnet fishing or related trade (DeSombre 2000, p. 121).

Similarly, between 1991 and 1999, the US prohibited imports of shrimps into the US from one or more countries each year, acting to enforce a 1989 law (Section 609 of Public Law 101-162) that forbids nations from selling their shrimp in the US if they have not enacted legislation that

adequately protects sea turtles. In 1996, when Thailand, Malaysia, India and Pakistan challenged American efforts to “export” its turtle protection standards, the Bush Administration strongly defended the US position before the WTO and expressed considerable satisfaction when the American sanctions were subsequently upheld. While the US has continually failed to ratify the 1989 Basel Convention on transboundary movement and disposal of hazardous waste, it has imposed its own prior informed consent regime for exports of hazardous wastes since 1984 (Choksi 2001: 534).⁵ More recently, in an effort to discourage the slaughter of dogs and cats for the international fur trade, the US enacted the Dog and Cat Protection Act of 2000, which prohibited the import of products made from dog or cat fur.

Clearly, the US has taken some unilateral steps to support environmental protection internationally. However, such efforts have been limited in scope and intensity. They by no means amount to the sort of full-fledged effort to pursue global environmental protection through unilateral means that one would expect if US foreign policy were committed to environmental protection but simply averse to multilateral methods of pursuing it. Likewise, the fact that the US has a good record of compliance with existing multilateral treaty commitments (Brunnée 2004) and that it does continue to support some new multilateral treaties (such as the Stockholm Convention on Persistent Organic Pollutants discussed below) suggests a blanket opposition to multilateralism alone does not explain the US’s opposition to recent international environmental treaties. As we demonstrate below, the most significant factors distinguishing the international

⁵ The full story of the US position concerning Basel is considerably more complicated. While the 1989 Convention established a prior informed consent regime that did not differ greatly from US practice, in 1995 the parties to the Convention signed a Ban Amendment that prohibited all exports of hazardous wastes from OECD to non-OECD countries. Initial US opposition to the initial 1989 Convention came largely from environmentalists who argued that the Convention did not go far enough in protecting developing countries. After the 1995 Ban Amendment, environmentalists came to support the Convention, while free trade advocates and industrial interests opposed it (Choksi 2001:526-537).

treaties that the US supports from those that it does not can be found in the domestic political and international regulatory competition considerations.

Turning to the EU, the notion that EU support for international environmental treaties is rooted in its more general commitment to multilateralism has some plausibility. Between the 1970s and 1990s, a series of Treaty amendments, directives and ECJ decisions gave the EU the power to act on behalf of its member states in international environmental negotiations (Jupille and Caporaso 1998; Sbragia and Hildebrand 2000:217-18). Beginning with its ambitious stances at the 1992 Rio Summit, the EU has consistently backed international environmental treaties (Jupille and Caporaso 1998:221; Zito 1995). Given the EU's limited capacities and ongoing divisions in the area of security and defense policy, it has focused on asserting its international leadership as a 'civilian power' in areas such as trade, human rights and environmental protection (Duchêne 1972, Zielonka 1998, Smith 2000). Across all these areas, the EU has emphasized its commitment to multilateralism. Whatever its precise motivations, it is clear that the EU has made the promotion of multilateralism and 'regional integration' around the world a central plank of its fledgling foreign policy (Farrell 2007; Smith and Laatikainen 2006, Rabkin 2000:276; Hettne and Söderbaum 2005).

If multilateralism were the primary driver of the EU's international environmental policy, we might expect that when the EU confronted new environmental issues it would wait until an international agreement could be reached, rather than proceeding unilaterally. However, as the many confrontations between the EU and its trading partners and the two successful legal actions against the EU before the WTO attest, the EU has shown little reluctance to move ahead unilaterally, even to the point of violating international trade rules. The EU's willingness to cause tensions in international trade fora and to move ahead on EU legislation in the absence of

international agreements, on issues ranging from GMO's, to chemical regulation, is evidence that its policies are driven primarily by internal considerations. While its commitment to multilateralism and to establishing a reputation as a 'civilian power' has been a strong motivation for EU leadership in the field of international environmental protection, these motivations have clearly taken a back seat to the domestic politics and international regulatory competition considerations discussed below.

The existing large-N literature succeeds in identifying a number of factors that are correlated with increases in the probability that a state will participate in international environmental agreements. However, none of these factors or explanations can shed light on why the EU has emerged as the leader in international environmental politics, while the US has moved from leader to laggard. Explanations that focus on growing US unilateralism and the growing desire of the EU to exert leadership in multilateral fora have some plausibility. The influence of the US and EU's general policy toward multilateral governance has also had some impact on their support for international environmental agreements. During the 1970s and 80s, the US was more able and interested in entering into binding multilateral agreements than the EU, in large measure because the latter's competence to enter into such agreements was still problematic. More recently, the US has become less willing to enter into such agreements; the EU has become both more willing and able. However, increasing US unilateralism has not given rise to a strong 'unilateral' foreign environmental policy. Nor has the EU's commitment to multilateralism deterred it from pursuing environmental objectives through 'unilateral' measures. When held up to close scrutiny, this perspective fails to explain US and EU approaches to a number of

international environmental issues and provides a decidedly weaker explanation than does a synthesis of the domestic politics and regulatory competition perspectives.

A REGULATORY POLITICS APPROACH

The regulatory politics approach suggests that a state's (or, in the case of the EU, a supranational polity's) support for international environmental agreements is a function of the relative political strength of environmental advocates and associated changes in the economic interests of domestic producers. Shifts between the 1970s and the 1990s in the domestic politics surrounding environmental regulation and associated shifts in how international environmental agreements were likely to affect domestic producers explain why the US and the EU "traded places" in international environmental politics. From the early 1970s to the start of the 1990s, the regulatory politics surrounding environmental issues in the US were conducive to US leadership on international environmental agreements, while those in Europe were less propitious. By contrast, from the early 1990s onward, regulatory politics in the EU encouraged it to champion a series of international environmental agreements, while conditions in the US led it to adopt an obstructionist stance.

DOMESTIC POLITICS

Shifts in domestic politics in both the US and the EU have played a critical role in shaping their respective positions on international environmental issues. From the late 1960s through around 1990, advocates of environmental regulation typically exercised considerable political influence in the US. Republican Presidents Richard Nixon and Gerald Ford and a Democrat controlled Congress responded to the political strength of green lobbies and their supporters by enacting a

wide range of new regulatory statutes between 1969 and 1976. Partisan competition was a vital spur to these initiatives, as Republicans and Democrats competed for the environmental vote (Jones 1975: 175-210). These included the National Environmental Policy Act of 1969, the Clean Air Act Amendments of 1970, the Federal Environmental Pesticide Control Act, the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1972, the Toxic Substance Control Act of 1976 and the Resource Conservation and Recovery Acts of 1976. While Republican legislators became less supportive of environmental regulation toward the end of the 1970s, Democratic President Jimmy Carter and the Democratic Congressional majority, working closely with an increasingly sophisticated and influential environmental lobby, enacted the Clean Air and Clean Water Act Amendments of 1977 and “Superfund,” in 1980.

Although President Ronald Reagan initially tried to reduce the burdens of environmental regulation on industry, he was rapidly forced to abandon these efforts as public interest in and support for environmental protection steadily increased during the 1980s. While the rate of regulatory expansion was less than during the previous decade, Congress expanded the Resource Conservation and Recovery Act with the Hazardous and Solid Waste Amendments of 1984, reauthorized Superfund in 1986, and enacted the Global Climate Protection Act in 1987 and the Ocean Dumping Ban Act of 1988. With public concern about environmental quality reaching levels toward the end of the decade that were comparable to that of the late 1960s and early 1970s, 1988 Republican Presidential candidate George Bush sought to distance himself from Ronald Reagan’s anti-environmental reputation by campaigning on a strong environmental platform. Once elected, he worked with a Democratic Congress to secure enactment of the Clean Air Act Amendments of 1990. This legislation, among its other provisions, addressed two important international environmental issues: it prohibited the use of CFCs by 2000, phased out

the use of other ozone-depleting chemicals, and reduced emissions that contributed to acid deposition, thus resolving a long-standing conflict with Canada over the impact of American “exports,” of acid rain.

The international environmental leadership role played by the US during the 1970s and 80s was consistent with the pattern of American domestic policies. American environmental standards were typically more innovative and stringent than in any industrial nation and the US played a similar leadership role at the international level. This linkage can be seen, for example, in the case of US policy on ozone depleting chemicals. During the mid 1970s the Environmental Protection Agency responded to strong domestic concerns about ozone depletion and prohibited the use of CFCs as aerosol propellants for non-essential applications, a decision that affected nearly \$3 billion dollars of domestic products (Benedick 1991). In 1977, Congress approved additional restrictions on CFCs, which essentially banned their use as an aerosol. The US began to pressure European chemical producers to adopt similar restrictions; they gradually did so, though their regulations remained less stringent than those of the US. Eventually American pressure led to the adoption of the Montreal Protocol in 1987 (DeSombre 2000).

Around 1992, both the domestic and international environmental politics of the US began to shift (Hopgood 1998:153, 202). Frustrated by the lack of support from the environmental community for its environmental policy initiatives, and facing strong criticism from the business community for the significant expansions of government regulation that had occurred during his administration, Bush became much less willing to support any new environmental regulations. In the President’s 1992 State of the Union address, he declared a ninety-day moratorium on any new business regulations. At the 1992 Earth summit in Rio, the US did agree to sign a Convention on Global Climate Change, but only after it was weakened to eliminate binding

targets. The US refused to sign the Convention on Biological Diversity (CBD), marking one of the very first times the US had not supported an international environmental agreement. In a highly symbolic act, President Bush became the only major world leader not to attend the Rio conference.

The weakened political influence of environmental lobbies in the US became even more apparent after the election of Bill Clinton in 1992. Clinton proposed to Congress a number of important environmental policies including the raising of livestock grazing fees, the imposition of new royalties and environmental standards on mining companies, an energy tax, the elevation of the Environmental Protection Agency to cabinet status and an overhauling of Superfund. He also signed the CBD and submitted it to the Senate for ratification, though he did add language that sought to protect intellectual property rights for American firms. But although the Democrats had retained their majorities in both houses during the 103rd Congress, Congress rejected virtually every one of the Administration's legislative proposals – including the ratification of the CBD. Environmentalists who had hoped that unified Democratic control of Congress and the Executive would lead to legislative breakthroughs were sorely disappointed. As Carl Pope, Executive Director of the Sierra Club, put it, “the 103rd Congress ended its term with the worst environmental record of any Congress in recent memory.” (Pope 1995)

The Republican capture of both houses of Congress in the 1994 mid-term elections further reduced the likelihood of new environmental regulation. While environmental issues did not play a critical role in the Republican triumph and the word “environment” did not appear in the Contract with America, the new Republican Congressional majority was much less sympathetic to environmental concerns than Republican legislators had been two decades earlier. In the early 1970s, Democrats in both houses supported on average approximately twenty

percent more environmental measures than did Republicans. By the mid-1990s, this discrepancy more than tripled. In 1995, Senate Democrats supported eighty-nine percent of environmental measures while Republicans supported only eleven percent. In the same year, House Democrats supported seventy-six percent of environmental measures while Gingrich's House Republicans supported only fifteen percent (Dunlap, Xiao and McCright 2001: 28-30). In light of this gaping partisan divide, Dunlap, et al. (2001) justifiably conclude that, "the Democrats have become the 'environmental party', and the Republicans the 'anti-environmental party'."

Whereas party competition had encouraged both domestic and international policy initiatives in the 1970s, the Republican Party's strong opposition to environmental regulation in the 1990s blocked initiatives at both levels. Between 1993 and 2000, Congress enacted only one new piece of environmental regulation, the Safe Drinking Water Act Amendments of 1996. Yet the anti-green preferences of the Republicans in Congress were not the only factor in the dramatic slowdown in the rate of expansion of environmental regulation that occurred after 1994. Public support for new regulation had also declined. Whereas public opinion surveys revealed a steady increase in public concern with environmental quality from the early 1980s through around 1990, during the early 1990s, the public became more satisfied with the nation's regulatory efforts. According to one 1994 survey, that 57% of Americans believed that the federal government was carrying out its responsibilities for protecting the environment full or fairly well while another reported that six out of ten respondents rated the nation's environment as excellent or good. [add references.] These attitudes help explain both why the Republican efforts to weaken environmental standards and their enforcement failed to pass Congress – notwithstanding their large majorities – and why the Clinton Administration was unable to muster sufficient public support to pressure Congress to enact new environmental laws –

including restrictions on carbon emissions proposed by the Kyoto Protocol. Essentially, the American electorate had become satisfied with the regulatory status quo: politicians were unable to mobilize public support to either reduce or expand the scope of environmental regulation.

The second Bush Administration, which took office in 2000, like the Republican Party in Congress, was not willing to support imposing new environmental requirements on business. The White House offered no legislation strengthening domestic environmental standards and issued a number of administrative rulings that either weakened existing standards or their enforcement (Barringer 2004; Cousins, Perks and Warren 2005). While survey data since 2000 do suggest an increase in public dissatisfaction with the regulatory status quo, clearly this was not sufficient to affect public policy (Guber, 2003; add cites) . Nor did environmental issues again become politically salient. Significantly, in the 2000 Presidential election, Democratic candidate Al Gore did not campaign on a green platform, and in the 2004 race John Kerry promised no new environmental initiatives.

The Bush Administration's policy preferences were echoed at the international level, most visibly through its stance on international efforts to address climate change. While the Clinton Administration had signed the Kyoto Protocol, though it had never formally submitted it to Congress, the Bush Administration broke off American participation in international negotiations on climate change and announced that it was opposed to any legally binding restrictions on carbon emissions. In 2007, when the Bush administration finally proposed a framework for international action on climate change after 2012, critics dismissed it as a ruse, noting that Bush's proposed voluntary approach would likely undermine EU efforts to secure binding emissions cuts through a UN framework (Stolberg 2007; Cornwell 2007; Mason 2007)

While the influence of environmental lobbies steadily weakened in the US beginning in the early 1990s, the opposite occurred in Europe. Mass environmental movements emerged across western Europe in the 1970s, shortly after the US environmental movement took shape. As in the US, governments across western Europe responded by establishing new pollution control laws, though their laws were generally less stringent and less ambitious than those established in the US (Vogel 2003). Given the opportunities for the emergence of small parties provided by proportional representation electoral systems, environmental activists in Europe quickly became involved in electoral politics. First in Germany, and later in a number of countries including Sweden, France and Belgium, Green parties emerged as a significant political force (Mair 2001). Throughout the 1980s these parties remained in the parliamentary opposition and well on the fringes of politics. However, they became more mainstream during the 1990s and entered national coalition governments along with social democrats in some member states, most prominently Germany. At the end of the 1990s, Green parties were represented in the national parliaments of 11 of the 15 EU Member States (McCormick 2001:61; Vogel 2003).

Thus, just as environmentalists were reaching the low-point of their influence in the US, they were achieving the peak of their influence in the EU. With the electoral successes of Green parties, environmentalists in a number of EU Member States had achieved a degree of political power of which their American counterparts could only dream. Under pressure from, or with the direct participation of, Green parties, governments in a number of Member States supported strict domestic standards and enhanced their commitments to international environmental cooperation.

The power of Green parties at the national level was magnified by the dynamics of regulatory politics at the EU level. First, EU institutions such as the European Commission and the European Parliament sought to appeal to European citizens and to demonstrate that the EU and its Single Market were not simply tools of international business. They saw the promotion of EU environmental policy as a powerful way to build support among European citizens for the EU. Second, Member States with strict domestic environmental standards viewed the EU as a forum within which they could export their high standards to laggard Member States. With Germany as their leader, green Member States such as the Netherlands and Denmark, and after their accession Sweden, Austria and Finland, demanded that the EU adopt stringent, ambitious environmental policies (Kelemen 2004; Vogel 2004; Zito 2000).

As a result both of domestic electoral dynamics in Member States with powerful Green parties and of EU policymaking dynamics, environmental policy expanded dramatically and standards became considerably more stringent during the 1980s and 1990s. This shift can explain why EU Member States and the EU itself, which had lagged somewhat behind the US during the 1970s, became increasingly vocal supporters of international environmental policy in the 1990s. National governments seeking to appeal to their increasingly powerful environmental constituencies, and the EU trying to establish its democratic legitimacy with a pro-environment European public, were eager to demonstrate their commitment to the environment on the world stage. The EU's consistent support for international environmental treaties in the 1990s, from the Kyoto Protocol, to the Basel Convention and subsequent ban, to the CBD and Cartagena Biosafety Protocol, can be understood largely as a result of these dynamics.

From the domestic politics perspective, the shifting EU and US positions on the international stage reflect the dramatic changes in domestic environmental politics. Where US

domestic politics had stimulated ambitious environmental initiatives in the 1970s and 1980s, the development of major new domestic initiatives ground to a halt after 1992. By contrast, domestic support for environmental policy in the EU increased in the 1990s and the growing role of the EU in the environmental field stimulated further advances in ‘domestic’ environmental policies of EU member states. With domestic environmental politics on each side of the Atlantic moving along ‘divergent paths’ (Vig and Faure 2004:1), it is fair to conclude that, “at no time have Europe and the US been as far away from each other on green policies”(Ghazi 2003).

REGULATORY COMPETITION

The regulatory competition perspective suggests that government support for international environmental agreements will depend on how such agreements affect the competitive position of domestic producers. In a number of important respects, the regulatory competition perspective yields expectations similar to those based on domestic politics. The more powerful the influence of domestic green pressure groups or parties, the more stringent will be domestic regulatory standards and therefore the more likely domestic firms will support comparable international standards in order to create a level playing field. From this perspective, the economic interests of business are themselves shaped by domestic politics. While domestic politics and regulatory competition are clearly intertwined, we can still observe the independent causal impact of regulatory competition on foreign environmental policy by examining in detail the motivations of US and EU policy-makers negotiating environmental agreements.

Turning first to the US, as its environmental standards were generally the world’s strictest from the early 1970s through the early 1990s, the US had a great incentive to see other

countries adopt similar standards. For example, some Nixon administration officials were concerned that the establishment of strict standards in the US could put American industry at a disadvantage vis-à-vis foreign competitors, and they hoped to level the regulatory playing field internationally. As Russell Train, head of Nixon's Council on Environmental quality, put it in an internal White House memo, "it is in the US competitive interest to have other nations raise environmental standards (and thus their production costs) and strengthen their enforcement of those standards."⁶ Second, the spread of American-style standards promised to provide markets for exports of US pollution control technologies that were being developed to respond to domestic regulation. Thus in the 1970s, leaders of both parties saw that by promoting US leadership in international environmental politics they could gain the support of domestic environmentalists, level the international playing field for US industry, and secure economic benefits for the US through the "export" of American standards.

From a regulatory competition perspective, the EU's interests have often been the inverse of those of the US. As noted above, EU states lagged behind the US in environmental regulation in the 1970s, but gradually caught up and in many areas surpassed it in the late 1980s and 1990s. Throughout the 1990s, as the flow of new environmental policies in the US slowed, the EU continued to adopt substantial directives and regulations in a number of areas including waste management and control of GMOs. The regulatory competition perspective suggests that while many European governments might have been reluctant to adopt substantive commitments in the 1970s, by the 1990s they would have been eager to export stringent EU standards to as many foreign jurisdictions as possible.

⁶ Memo, Train to Ehrlichman, 20 Sept. 1971, *Nixon Presidential Materials Staff*, White House Central Files, Federal Government (Organizations), Box 1, Quoted in Hopgood, 1998:86. Also see Jacobson (2002) for a similar argument.

We can observe the dynamics generated by regulatory competition between the US and EU in a number of issue areas including international agreements concerning ozone depletion, biological diversity, climate change and persistent organic pollutants. In the case of the Montreal Protocol on ozone depleting substances, US and EU economic interests were clearly at odds. This agreement was in the economic interest of the major American producer of CFC's, namely Dupont, because domestic regulatory policies and pressures beginning in the 1970s had imposed more restrictions on the production of these chemicals than had been imposed on their European competitors. US industry already faced costs that their EU counterparts did not, and given ongoing concern over CFC's in the US, Dupont and other US manufacturers, represented by an industry group, The Alliance for Responsible CFC Policy, saw further restrictions on CFCs in the US as inevitable. They did not want to be put at a disadvantage vis-à-vis foreign competitors, and therefore pushed for international regulation of CFC's during the 1986 Montreal Protocol negotiations. International regulation promised not only to level the playing field, but to create export opportunities: as a result of prior domestic regulation of CFC's, Dupont had experience in developing substitutes for some CFC uses, and they and other US manufacturers saw the potential to take a lead in developing and exporting a range of substitute substances and technologies (Desombre 2001:58). By contrast, an international phase-out of ozone depleting chemicals disadvantaged European producers who faced weaker domestic restrictions. European producers, and European Community negotiators,

Regulatory competition also helps explain EU support for and US opposition to international agreements on biodiversity conservation and 'biosafety'. At the time the Convention on Biological Diversity appeared on the Rio Earth summit agenda, there was little or no controversy on either side of the Atlantic about the ecological implications of agricultural

biotechnology; neither European or American NGO's had yet to become interested in this issue. Thus the American position did not reflect the relative weakness of green pressure groups in the US. Nor did it reflect the laxity of domestic standards. In fact, the US was a leader in biodiversity protection domestically.

Rather the American position at Rio stemmed from concerns that the treaty's provisions requiring a sharing of technological developments, changing laws on intellectual property rights and patents and providing additional funds to finance biodiversity protection in developing countries, would have meant "that the emerging biotechnology industry – led by US firms – would lose billions of dollars from the making of agricultural, industrial and pharmaceutical products" (Hopgood, p. 168. Also see Raustiala 1997; Schreurs 2005). Most critically, the terms of the convention seemed to contradict or undermine the efforts of American trade negotiators to strengthen the protection of intellectual property rights as part of the Uruguay Round GATT negotiations. In the case of producers of agricultural biotechnology, provisions of the CBD threatened both to undermine the property rights of U.S. biotechnology firms by requiring that they transfer proprietary information regarding their products and pay royalties to developing countries and to create a basis for discrimination against US agricultural products by requiring pre-import approval of GMOs (Blomquist 2002:527-34). Significantly, while the Clinton Administration did subsequently sign the Convention, it did so only after drafting a set of "understandings" that addressed the concerns of business that had prompted opposition to it by the Bush Administration.

Similarly, regulatory competition explains the divergent EU and US positions on the 2000 Cartagena Protocol on Biosafety, an agreement adopted within the framework of the Convention on Biodiversity. The EU championed the Cartagena Protocol in an effort to

‘internationalize’ its approach to GMO regulation. In the 1990s, in response to mounting health, consumer safety and environmental concerns in Europe, the EU has established a stringent regulatory regime for the authorization and labeling of GMOs (Pollack and Shaffer 2005). The Cartagena Protocol made it easier for countries to block imports of genetically modified seeds and crops, in part by allowing countries to invoke the ‘precautionary principle’ as a justification to restrict imports. As few European firms produced such genetically modified foodstuffs, they had little to lose from an international treaty restricting trade in GMOs, while they stood to gain if such trade restrictions raised costs for their American competitors or reduced foreign demand for the genetically modified agricultural products produced by their American competitors. US firms, by contrast, stood to lose a great deal from the Cartagena protocol. In the 1990s, concerns over biotechnology were far less salient in the US than in the EU, and the US government adopted a far more lax approach to the regulation of GMOs. Operating within the supportive US regulatory environment, American firms became major producers – and exporters – of GM crops and seeds. By making it easy for countries to exclude such products, the Cartagena Protocol would severely disadvantage both American farmers and biotechnology producers, and they pressed the US government to actively oppose the agreement (Bernauer 2003; Schreurs 2005).

Similarly, factors related to regulatory competition have encouraged the EU to assume a leadership role, and the US a laggard position, on global climate change. Faced with no domestic regulatory pressures to reduce their carbon emissions, it was in the economic interests of American industry to oppose an international agreement that would require them to do so. By contrast, confronted with substantial domestic political pressures to reduce greenhouse gas emissions, it was in the interests of European producers to favor an international agreement in order to also have restrictions placed on their American competitors.

The 1992 Framework Convention on Climate change did not set out binding targets for reductions in green house gas (GHG) emissions, but it did call on signatories to take steps to reduce emissions. While the US signed the climate change convention, it failed to adopt any significant domestic legislation to address climate change throughout the 1990s. US recalcitrance can not be attributed only to Republican intransigence: the overwhelming majority of both parties have opposed taking any far-reaching measures that would discourage emissions by raising fuel costs. Shortly after coming into office, the Clinton administration proposed the introduction of a BTU (British Thermal Unit) tax as a way to encourage energy conservation and to meet the non-binding greenhouse gas emission reduction targets set out in the 1992 UN Framework Convention on Climate Change. This proposal was shot down by strong by bi-partisan resistance in the House, as opponents emphasized that the tax would damage the competitiveness of US industry (Zarsky 1997).

The 1997 Kyoto Protocol, which required binding reductions in greenhouse gas emissions, threatened to impose far greater costs on the US than on its trading partners. The Kyoto Protocol called for using 1990 as a baseline year against which reductions in greenhouse gas emissions would be measured and called for similar reductions from the EU (8%) and the US (7%) by 2012. However, the US had experienced faster economic growth than the EU in the 1990s, and a number of EU member states had reduced their CO₂ emissions after 1990 for idiosyncratic reasons (i.e. the UK's switch from coal to gas, and Germany's shut-down of inefficient East German plants). As a result, by the time the Kyoto Protocol was signed in 1997, the US would have had to reduce emissions by 30-35% from the levels projected for 2012 in order to meet the Kyoto target, where the EU needed to make cuts of only 15-20%.⁷ The US was also concerned about the impact of Kyoto on its competitiveness vis-à-vis developing countries

⁷ "The Collapse of Kyoto", Oil and Gas Journal 49, Dec. 4, 2000, p.25 cited in Yandle and Buck 2002:218.

such as China, given that the Kyoto talks were premised on exempting developing countries from any binding reductions in greenhouse gas emissions. The Senate signaled its concern over this issue just months before the start of the Kyoto negotiations by adopting the Byrd-Hagel resolution in 95 to 0 vote, declaring that it would not support any global warming treaty that did not impose mandatory reductions on developing countries as well as developed countries. Though the resolution did not prevent the Clinton Administration from signing the Kyoto Protocol, ongoing Senate resistance blocked any prospect of ratification.

In the case of global climate change, the interests of American firms were both a cause and effect of the American domestic politics. In principle, the issue of global climate change could have become as politically salient in America as in Europe, and thus it would have been in the interests of American firms to have favored ratification of the Kyoto Protocol like their European counterparts. However, absent any significant pressure for domestic regulation of GHG emissions, US industry had no incentive to support US participation in an international regulatory framework.

The intersection of domestic politics and regulatory competition has encouraged the EU to take on a leadership role in addressing climate change. As awareness of the threat posed by climate change mounted during the 1990s, domestic political pressure for action to curb greenhouse gases mounted in Europe. The calculus for European policy-makers was clear: given that voters would in any case demand EU action on climate change, it was clearly preferable to promote action at a broad, international level that would force the EU's competitors to undertake costly measures as well. Some have argued that because the EU has high energy taxes, which put it at a competitive disadvantage relative to the US, it hoped to use international climate change commitments as a way to pressure the US to raise its energy taxes (Yandle and Buck

2002:197). Prior to the Rio Earth Summit, the European Commission had indeed pushed for industrialized nations to adopt an energy tax, and the desire to see other jurisdictions introduce higher energy taxes may have been a motivation for the early EU position on climate change. As noted above, the costs of implementing the Kyoto Protocol promised to be far less for the EU than for the US. Also, the EU initially resisted US efforts to use tradable permits and sinks as ways to meet its obligations under Kyoto. Though they later acquiesced and supported the use of such 'flexible mechanisms', EU leaders had long argued that developed countries needed to demonstrate their commitment to reducing their emissions by making actual domestic cutbacks, rather than by financing emission reductions or tree planting schemes in the developing world. EU resistance to flexible mechanisms strained the negotiations, and some observers contend that this EU position was motivated by the fact that EU leaders, "wanted Americans to feel some economic pain more than they wanted a workable agreement."⁸

The point here is not to suggest that the EU's support for Kyoto has simply been part of an effort to raise costs for competitors. Indeed, Kyoto imposed far greater costs on the EU than on developing countries, and Kyoto commitments forced the EU to undertake far more costly measures than it had undertaken internally. Rather, we argue that given that domestic political pressures discussed above would in any case drive the EU to act on greenhouse gas emissions, EU leaders clearly preferred to press other states to join them in the fight against climate change. Finally, the fact that the costs of complying with Kyoto promised to be less for the EU than for some other jurisdictions certainly made the agreement more palatable.

Finally, the regulatory competition perspective also helps explain US and EU positions on the 2001 Stockholm Convention on Persistent Organic Pollutants (POPs), the one significant

⁸ "Oh No, Kyoto", *The Economist*, April 7, 2001, p. 23.

international environmental agreement that the Bush Administration has endorsed and submitted to the Senate for ratification. This treaty contains two major provisions: first, it either bans or phases out the production of twelve POPs - toxic chemicals including DDT, dioxin and PCBs - which have been linked with cancer, reproductive failure and birth defects; second, it establishes a mechanism for signatories to agree on adding new POPs to the elimination list.

Regulatory competition concerns explain both why the Bush administration signed the 2001 treaty banning the initial 'dirty dozen' chemicals, and why concerns over the provisions for adding new chemicals to the list have prevented Senate ratification of the treaty. The Bush Administration's support for the Stockholm Convention does not reflect the current political strength of green pressure groups in the US. Rather, it reflects the fact that the chemicals banned by the Stockholm Convention were either already banned in the US or had not been produced in the US for years. Accordingly, the Convention imposed no new costs or regulatory burdens on US firms and promised to help spread US standards internationally.⁹ However, in terms of the Convention's mechanisms for adding other POPs to the list for elimination, the US has resisted any provisions that might pressure it to regulate new POPs beyond the original twelve listed in the Convention. While the US had restricted a number of POPs in the 1970s and 1980s, by the time the Stockholm Convention was negotiated there was little pressure for further domestic regulations on POPs. Therefore, it was in the economic interest of US industry to oppose any international commitments that might expose the US to costly new regulations. In 2000, Clinton administration negotiators secured an 'opt-in' safeguard, assuring that signatory states would only have to regulate POPs added to Convention if they voluntarily 'opted-in' to doing so. Nevertheless, fear that the Stockholm Convention could generate pressure for the US to adopt new regulations in the future has prevented the Senate from ratifying the treaty. Before the

⁹ Nicholas George, "Top Pollutants Treaty to be signed," *Financial Times*, May 23, 2001, p.14.

Senate can give its necessary “advice and consent” on the treaty, Congress must adopt amendments to domestic legislation (the Toxic Substances Control Act (TSCA) and the Federal, Insecticide, Fungicide and Rodenticide Act (FIFRA)). However, progress on making the necessary amendments was blocked throughout the 108th and 109th Congress, as Congressional Republicans sought further safeguards, demanding that the EPA should not be required to even consider regulating POPs added to the Convention and that any US assessment be based on cost-benefit analysis rather than the ‘precautionary principle’ called for in the Treaty (Wiser, 2004).

Like the US, the EU had already restricted the initial ‘dirty dozen’ POPs regulated under the Stockholm Convention and thus had an economic interest in seeing similar standards adopted internationally. However, unlike the US, which has resisted the mechanisms for adding new POPs to the Convention, the EU has championed that aspect of the treaty. Regulatory competition concerns have clearly encouraged EU support for the Convention’s ‘adding mechanisms’. In the period when the Stockholm Convention was being negotiated, the European Union faced strong domestic pressure to strengthen regulation of toxic chemicals, and the European Commission was preparing a White Paper that would propose a dramatic tightening of the EU’s regulatory regime for chemicals, including POPs. The 2001 White Paper on a Strategy for Future Chemicals Policy (Commission of the European Communities, 2001) initiated a five year legislative battle that resulted in the adoption of the EU’s landmark REACH (Registration, Evaluation and Authorisation of Chemicals) regulation in 2006 (EC 1907/2006).¹⁰ Given that the EU was very likely to impose further restrictions on the use of various POPs, it was in the economic interest of EU industry to see similar regulatory restrictions imposed on foreign competitors through the Stockholm Convention. Indeed, by the time the Stockholm

¹⁰ For more detailed discussions of REACH and the politics surrounding it see Smith (2006) and Pesendorfer (2006).

Convention went into force in May 2004, the European Commission had already compiled a list of nine POPs to submit for addition to the Convention (ENS, 2004).

CONCLUSION

This article has sought to explain why the US and the EU have traded places with respect to international environmental issues. We show that existing explanations for national participation in international environmental agreements, while useful for large-N studies, cannot explain shifts in US and EU positions. Likewise, we show that the US and EU positions on international environmental agreements are not simply a product of their respective commitments to unilateralism and multilateralism. We then explore the role played by two factors: the relative political strength of green constituencies and the competitive impact of international agreements. We conclude that the most powerful explanation links domestic politics and regulatory competition in a Baptist-bootlegger mode. The stronger the political influence of green pressures, the more stringent are domestic standards and the more it becomes in the interests of business to support internationalizing those standards. However, domestic politics also affect international politics more indirectly: the greater the ability of green interests to secure the adoption of more stringent domestic standards, the more likely they are to secure domestic support for the adoption of most stringent international ones. Regulatory competition also adds independent explanatory power: the more economically significant a domestic industry, or the more likely it will be adversely affected by more stringent international standards, the more difficult it will be to secure the adoption of more stringent domestic or international standards.

During the 1970s and 80s, green pressure groups were generally more influential in the US than in the EU or in many member states. Since the early 1990s, the political strength of green pressures groups has weakened in the US and strengthened in Europe. Proposed international agreements during the 1970s and 80s were more likely to advantage, or at least not disadvantage, American than European producers. Since the early 1990s, the opposite has been the case.

TABLE 1: US and EU Participation in Major International Environmental Treaties

Year	Treaty	US		EU	
		Signed	Ratified	Signed	Ratified
1971	Convention on Wetlands (RAMSAR)	X	X	X	X
1972	Stockholm Declaration	X	X	X	X
1972	London Convention on Dumping at Sea	X	X	X	X
1972	World Heritage Convention	X	X	X	X
1973	CITES	X	X	X	X
1978	Convention on Prevention of Pollution from Ships (MARPOL)	X	X	X	X
1979	Convention on Long-range Transboundary Air Pollution	X	X	X	X
1982	Convention on Law of the Sea	0	0	X	X
1983	International Tropical Timber Agreement (ITTA)	X	X	X	X
1985	Vienna Convention for protection of the Ozone Layer	X	X	X	X
1987	Montreal Protocol on substances that deplete the ozone layer	X	X	X	X
1989	Basel Convention	X	0	X	X
1991	Convention on EIA in a Transboundary Context	X	0	X	X
1992	Climate Change Convention	X	0	X	X
1992	Biodiversity Convention	X	0	X	X
1992	Convention on Transboundary Effects of Industrial Accidents	X	0	X	X
1994	Convention to Combat Desertification	X	X	X	X
1994	International Tropical Timber Agreement (replaces 1983 ITTA)	X	X	X	X
1997	Kyoto Protocol	X	0	X	X
1998	Rotterdam Convention on Prior Informed Consent	X	0	X	X
1998	Aarhus Convention on Information, Public Participation and Access to Justice	0	0	X	X
2000	Cartagena Protocol on Biosafety	0	0	X	X
2001	Stockholm Convention on POPs	X	0	X	X

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