

## **The Sweet EU Politics of WTO Rule Compliance: Duty Bound Reform?**

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Paper presented to the Political Studies Association Annual Conference,  
Edinburgh, 30 March 2010  
Panel on “The Politics of Trade Justice: Mobilising Morals in Policy Reform”

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## Introduction

There is a nascent literature interested in transplanting John Kingdon's multiple streams (MS) model of public policy making from its roots in the study of US government to the analysis of European Union (EU) policy-making (Peters 1994, Richardson 2006, Zahariadis 2007). There is manifest potential in this research effort. Despite its US antecedence, Kingdon (2003, p.190) actually borrows one of his key causal concepts – the spillover – from Haas' (1968) study of EU integration. Zahariadis (2008, p.527) argues that MS is very well suited to looking at the EU as it 'drives home the point that ambiguity is an indispensable part of the EU policy process'. In a similar vein, Cram (2001), Corbett (2005) and Richardson (2006) see the MS model as well placed to deal with characteristics of complexity and fluidity in EU policy making processes; as well as accurately representing the relatively inchoate nature of EU institutions.

In applying the MS model to EU studies two issues arise. The first is the need to decontextualise the model, as Pollitt (2008, p.127) puts it, "the further one travels from the US – and especially from the distinctive characteristics and procedures of the American legislature – the more Kingdon's analysis may require adaptation."<sup>2</sup> Second, this decontextualisation reveals the theoretical underdevelopment of some concepts in the original MS formulation. Recent papers have begun to address some of the weaknesses in the foundational work on the MS model (for example, Zahariadis 2003; Natali 2004; Borrás and Radaelli 2009). We contribute to this literature through further adaptations to the MS model, We interpret ambiguity in *institutional* terms; and investigate the relationship between it and policy entrepreneurship (PE) in the MS model through a case study of reform of the EU sugar regime in 2005<sup>3</sup>. We argue institutional ambiguity results from a policy-making environment consisting of overlapping, incomplete and potentially inconsistent institutions developed at different times for different purposes. At certain moments, this ambiguity may become central to conflicts over policy agendas and attendant struggles over jurisdictional authority and policy framing.

We counter claims of institutional fluidity or even 'deinstitutionalisation' in the EU (Zahariadis 2008) by proposing theoretical adjustments which stress that even in situations of institutional ambiguity, formal institutional roles with formal authority still exist, and political actors who occupy these roles can have distinctively institutional power in defining policy agendas and shaping the process of alternative specification. In particular, we query the portrayal in much of the literature on PE in the EU (and indeed in Kingdon) of policy-makers as passive recipients of policy entrepreneurs' advocacy or brokering activities. Instead, we offer a novel theoretical contribution by arguing that institutional roles may enable policy-makers to act as commissioners of ideas and proposals in response to policy windows, conceived as signals from the wider policy environment. As such the causal mechanism is not brokering or the indefatigability of entrepreneurs as advocates, but rather a filter-based selection mechanism where intentional agents select deliberately from a range of policy options.

As a theoretical corollary, we reconsider the notion of spillovers (Kingdon 2003, pp.190-194). We claim that the nature and duration of policy spillovers can transform institutional ambiguity into conflict, affecting the balance of power in struggles over the agenda, the specification of alternatives and decision-making. Kingdon (*op cit*,

p.190) argues that a spillover “sometimes establishes a principle that will guide future decisions within a policy arena. At other times, a precedent spills over from one arena into an adjacent one.” He thus views spillovers as exogenous. We argue, however, that spillovers can also be endogenous. Haas (1968, p.297) argued that sectoral integration “begets its own impetus toward extension to the entire community even in the absence of specific group demands and their attendant ideologies.” In his example market forces, released through market liberalisation in one sector, created pressures for liberalisation across participating countries’ economies. This was more than epiphenomenal precedent-setting or a demonstration effect: it was connected directly to the initial policy decision.

Endogenous spillovers are signals between elements within the policy system of pressures for reform and the receptivity for different policy proposals. In terms of institutional ambiguity where different policy institutions are involved in the same policy system but in the absence of a clear hierarchy, endogenous spillovers represent a temporal (re)ordering of priority: a dimension of policy decided at time 1 under one institution in the policy system may spill over, creating pressures for reform and shifting the receptivity of different policy proposals from other policy institutions within the system at time 2. Policy institutions gain priority in the context of ambiguity by initiating spillovers rather than being subject to them. At the same time, skilful policy entrepreneurs may use the character of endogenous spillover effects to further a certain agenda or policy proposal in other institutions.

One important characteristic of spillovers is their duration. Kingdon (2003, p.192) states “it is important to move very quickly. The window in the first area opens windows in adjacent areas, but they close rapidly as well.” We argue, however, that endogeneities can hold windows open. In our case, change in one policy area created an imperative for change in another, but specific endogenous characteristics of the spillover meant reform in the latter policy area did not have to occur immediately. In the broader context of MS, the nature and duration of the reform window affects the bargaining over agenda-setting and policy-making.

The second part of our paper presents a case study of institutional ambiguity, where policy institutions that had protected the sugar policy from reform for over forty years came to overlap with and were perturbed by institutions relating to institutions for international development policy-making and compliance with international agreements. Sugar was the last major commodity under the Common Agricultural Policy (CAP) to experience fundamental change. Most analyses of the reform concentrate on a single, salient causal event; a negative trade dispute ruling against the regime in the World Trade Organisation (WTO) (eg Daugbjerg and Swinbank 2008); the inclusion of sugar in the Everything But Arms (EBA) agreement (eg Brüntrup 2007); or the increasingly incongruous nature of sugar support compared to reformed CAP sectors.

Our contribution to this empirical literature is to draw together these elements, combining endogenous and exogenous spillovers with a particular focusing event in the policy window (Kingdon 2003, pp.94-100). Underpinned by data from a series of elite interviews, we argue that each factor was necessary but not sufficient individually to explain fully the reform agreement. In doing so, a more nuanced

picture of how trade demands interact with other demands – such as the moral priority of international development assistance – at important policy making junctures.

### *The multiple streams model*

The Kingdon model is well-known and widely used; it is usually discussed in terms of three independent streams that flow through the policy system: politics, problems and policy. The politics stream contains factors that create an environment conducive to agenda-change, the problems stream contains concerns that come to the attention of policy makers, whilst the policy stream is where ideas and proposals are formulated and revised. However, as Barzelay and Gallego (2006) argue these are only descriptive heuristics to help organise a historical policy narrative (see also Zahariadis 2007, p.81-82). Instead, the key *explanatory factor* is a temporal conjunction of the separate sub-policy processes; namely “agenda setting, alternative-specification, and decision making” (Barzelay and Gallego, 2006, p.539). When the agenda for a policy change and a proposal for policy change coincide at certain moments, this greatly increases the likelihood a policy reform is enacted. The moments when such conjunction *might* take place are known as policy windows, and Kingdon provides a set of causal mechanisms which explain such opportunities. *Whether* they are actually exploited and a policy proposal enjoys a strong probability of being agreed and implemented, is explained by the activities of policy entrepreneurs.

There is little attention in the literature given to the key corollary: PE can only be understood in a particular context. Instead, there is a focus on entrepreneurs as individuals with particular life experiences, aptitudes and policy preferences (see for example Corbett 2005). Such an approach seemingly downplays Kingdon’s real ambition: to illuminate the *ceteris paribus* clause for the comparative analysis of policy processes. No entrepreneur can cause policy reform alone; a certain set of background conditions is required for a PE strategy to cause reform, fixed by a *ceteris paribus* clause. If conditions change in another case - i.e. everything is not equal - then we cannot infer the same entrepreneurial causal mechanism. The expert and skilled advocacy of a policy idea, or skilled brokering, will only produce reform in some contexts: this is the causal structure behind the maxim ‘ideas have their time’.

### *Policy entrepreneurship in situations of institutional ambiguity*

Institutional ambiguity is a key context for PE in the study of EU policy-making. Whilst the EU Commission does not approximate to a Weberian ideal of procedural rationality in producing policy proposals, neither does it resemble one of fluid participation and transient interactions between policy entrepreneurs. In many policy fields, agenda setting and alternative specification involve institutionalised interaction between different Directorates-General. They have their own distinct policy positions, consisting of shared interpretations and evaluations of past policy decisions as well as current policy problems, forming a strong background to what agents in certain institutional roles at a particular time believe and how they act in the policy process. Institutional ambiguity refers to the situation where there is no clear formal hierarchy of authority when these different policy positions come into conflict; this provides a key context for PE in the EU.

In his analysis of the context for entrepreneurship, Kingdon (2003, p.165) defends the independence of the three streams, but also acknowledges there is, in practice, the possibility of interaction between the three streams (*ibid*, p.228). Throughout his work

Kingdon stresses that participants should be separated from processes and that – although unlikely – it may be that the same participant acts in each of the streams. Indeed, during policy windows multi-stream working is essential for policy entrepreneurs to perform their *brokering* as opposed to *advocacy* role.

However, the problem for Kingdon in stressing independence of the streams is the activities of entrepreneurs in advocating ideas in the policy stream outside of a policy window; for his case studies all identify the advocacy efforts by policy entrepreneurs ahead of any window as strongly affecting the receptivity in the political stream to certain ideas during the subsequent window. Indeed, the notion of a stream seems to imply that the consistent and strong advocacy of ideas can serve to shape the preferences and attitudes of key policy-makers in the political stream in *anticipation* of future windows of opportunity. To the extent that coupling efforts ahead of windows affect the probability of coupling in windows, we can query the extent to which the heuristic independence of the three streams holds for explanatory purposes.

Another interaction mechanism between the three streams, hinted at but not developed in the literature, is the notion that the emergence of ideas in the policy stream is considered analogous to natural selection (Kingdon 2003, p.124; also see Kerr 2002): policy ideas circulate, combine and recombine but are selected by an environment of technical feasibility, value congruence, budgetary implications, and political support. It might be speculated that this notion remains underdeveloped because of the problem it provides for the centrality of creative and entrepreneurial agency in policy-making. In this paper we introduce commissioning as an alternative to brokering mechanisms in explaining coupling. We propose a filter-based explanation whereby policy windows are understood as changes in the signals from the broader policy environment to creative and intentional agents in particular institutional roles who, in response, adjust their selection rules for adjudicating among essentially random options available in the policy stream. In such an intentional selection mechanism, the nature of a policy window affects the commissioning activity of policy-makers; as opposed to advocacy or brokering entrepreneurial mechanisms, where the policy window simply provides an opportunity for coupling.

#### *Coupling by intentional selection*

Coupling is critical in the Kingdon model; it is the means by which opportunities to push particular policies are successfully exploited to raise a policy proposal high onto the decision agenda. Zahariadis (2007) states that coupling in the Kingdon model is a function of the nature of the policy window as well as the skills and resources of the policy entrepreneur. As noted almost all the discussion focuses on the latter element rather than the first: we argue for the importance of the former.

In the Kingdon model, the streams are viewed fundamentally as independent, thus the opening of a window in either the politics or problem streams is not causally related to the policy stream (but see Kingdon 2003, pp.227-229; Zahariadis 2007, pp.81-82). Instead, the policy stream is a transmission belt of previous policy decisions, policy analyses and the nature of the policy discourse. Within the stream there are networks of policy entrepreneurs who mediate the emergence of policy ideas and attempt to increase the receptivity of policy-makers to their ideas. Importantly, what emerges as a potential solution in response to the opening of a policy window is a result of prior advocacy for ideas and proposals by entrepreneurs, in particular their skill, persistence

and resources in pushing a particular project. With the Kingdon model, it is thus entrepreneurs' ability to sell these ideas to policy-makers in response to policy windows that explains whether windows of policy opportunity result in policy change.

However, this account of coupling fails to capture the intuition in much policy scholarship of 'something needing to be done'. Consistent with Kingdon adumbrating situations where policy solutions exist in search of a problem or rationale, we claim the possibility that changes in the political or problem streams may signal to policy-makers to select from known possible proposals. When these windows or environmental signals occur in the political stream, the agenda may be short term, presentational or symbolic and force a search for politically successful policies. These are not obviously related to solving policy problems; indeed the problem stream is connected last, providing legitimacy for dealing with societal problems, but only after the politics and policy streams have been coupled.

Where windows create short term, time-pressured political agendas which act as filter mechanisms for ideas in the policy stream, the role for policy entrepreneurs becomes limited. They still advocate and keep ideas available for selection by policy-makers driven by short term political pressures, but their brokerage role in explaining when, why and in what form policy reform is enacted is attenuated. Instead, it is the nature of the policy window, how it is used to create a problem by policy-makers and the adjustments they make in their filtering mechanisms which plays the primary causal role in shaping which policy ideas gain attention.

Policy windows open in the problem or politics stream for various reasons; such as focusing events in the problem stream, changes of personnel in the politics stream or from spillovers from reform processes in cognate policy sectors. In Kingdon's MS model, policy entrepreneurs are not involved directly in the opening of the window; rather they continue to act within the confines of the policy stream. However, both Cram and Corbett claim that policy entrepreneurs can open the window. This however leads back to the earlier point that we risk confusing different mechanisms. Corbett (2005) locates policy entrepreneurs in the higher levels of the Commission. Thus the distinction between policy entrepreneurs and policy-makers in the politics stream becomes blurred. Furthermore, for Corbett it is essential to appreciate that these are *individuals* with life histories, personal beliefs, identities as well as an institutional position. For her you must understand them, beyond just their institutional context, to apprehend fully their influence in policy change.

Without wishing to doubt that claim, this raises questions about what the concept of PE adds to the explanation; Corbett seems to use PE as a general term for the claim that in certain institutional roles some agents are better than others in implementing successfully policy and political strategies (and that institutional roles do not rigidly determine views and actions of the office holder). But as a theory of PE we are left short: why do some succeed and others fail? Why are only some able to discern and exploit opportunities? To the extent that the effectiveness of policy entrepreneurs is a function of institutional position, what does the concept add? Does the term mean anything without analysis of the situation in which opportunities occur (i.e. entrepreneurship *qua* actions can only be judged in a particular situation)?

Our analytical strategy has policy-makers, instead of being passive agents sold coupling strategies by policy entrepreneurs, employing intentional filter mechanisms to select a policy solution appropriate for the agenda they construct from changes in environmental signals (the policy window). Thus policy solutions can make it onto the decision-agenda not because they are sold by the persistence and skill of policy entrepreneurs, but because policy-makers select the ideas appropriate for the policy window and thus the policy entrepreneurs who advocate. This is an alternative way of understanding the intuition that ideas have their time. Coupling occurs because policy is adapted to, suited to the nature of the policy window; it responds to the opportunity.

This alternative specification serves to adumbrate further certain problems in the concept of PE: most pertinently, are those hitherto called policy-makers actually policy entrepreneurs? In Kingdon, policy entrepreneurs sit outside the formal decision-making process. However, as noted, subsequent scholarship (particularly with non-US applications) has also placed policy entrepreneurs in senior bureaucratic positions. We argue the literature contains no satisfactorily consistent or analytically hard-edged answer to: (i) who is a policy entrepreneur? and (ii) what is PE? If policy entrepreneurs can be in high formal office as well as outside the formal machinery of policy-making, then the concept is being stretched and two separate policy-making mechanisms conflated: the *selling* of ideas to policy-makers and the *selecting* of ideas by policy-makers. Both may be entrepreneurial. We prefer to understand PE as a general label for a set of behaviours in the policy process, rather than a permanent characteristic of a particular individual or role. Thus the attribution of causality to agency *qua* PE is only ever temporary, and acutely sensitive to context and situation.

Following Kingdon, we see PE as occurring at the nexus of two phenomena: (i) the opportunity and (ii) the individuals. This is the logic that Kingdon follows in articulating why, when and how opportunities for successful PE arise; but missing in Kingdon is a rigorous account of (a) why, when and how only some discover PE opportunities; and (b) why, when and how different strategies/actions are used to exploit PE opportunities. In terms of discovery, it cannot be obvious to every policy actor; otherwise it would simply be a widely-known exogenous factor. Thus we need a mechanism to explain why some might discover an opportunity and others not. Informational advantages seem an obvious candidate, alongside cognitive skill at interpreting and acting on those advantages.

The discussion of PE in EU policy-making tends to rely on the unstated argument that entrepreneurial characteristics at the individual level are not normally distributed in the population; there is something distinctive about the individuals who are policy entrepreneurs. However, this attribution is always done *ex post* and always to political actors involved in actual reform. This limits significantly our understanding of PE. For instance, we have no analytical means of explaining successful PE because we have no sample of failed PE strategies. Moreover, we equate successful PE with change but, for example, PE may seek defence of the status quo, with strategies employed to preserve institutions and policy systems against reform.

Therefore of the large group of potential policy entrepreneurs, we can only really explain entrepreneurship in terms of actions in a particular context. PE is thus not a stable characteristic that differentiates policy agents in all situations; rather, it refers to actions in certain policy-making situations. Taking this idea into our case study, we

explore key policy events that led up to the reform of the EU sugar regime in 2005. Our interviews have revealed that PE was not purely reactive to a given situation: rather, a sequence of events occurred – elements of which were endogenous to EU agenda-setting activities – that created an irresistible pressure for policy change within an open window.

### **EU Sugar Reform: an idea whose time had come?**

Three distinct sources of pressure for sugar reform can be identified. First, EBA would give sugar exports from LDCs duty-free quota-free (DFQF) access to the EU market, after a transition period lasting until 2009. They could thus undercut the high prices set under the extant EU sugar regime payable not only on domestic EU sugar production, but also on a fixed quantity of sugar imported from African, Caribbean and Pacific (ACP) countries under the Sugar Protocol of the Lomé Convention.

The second pressure came via a negative ruling on a dispute case in the WTO. The 2004 Panel ruling, upheld by the Appellate Body (AB) in 2005, meant the EU had to reduce significantly the volumes of subsidised sugar exports, to comply with previously-agreed limits. Third, since 1992 reforms to most major CAP commodity regimes – cereals; other arable crops; and livestock, which use cereals as a feed input – have cut support prices significantly, replaced initially by commodity-specific partially de-coupled direct payments and, in 2003, by more fully de-coupled Single Farm Payments (SFPs). These changes left an unreformed sugar regime, still highly trade distorting and protectionist, looking increasingly anachronistic.

Whilst much of the literature tends to focus on one or other pressure, we argue a full understanding of the reform requires an analysis integrating all three. The concept of institutional ambiguity is at the core of this analytical strategy; in particular, we trace the events whereby EU sugar policy-making came to involve multiple, linked and potentially contradictory institutions,. Indeed, ambiguity among tightly coupled institutions supports the claim the three pressures for reform are not independent but rather the result of strong interaction effects. The adapted MS model proposed can cope with endogeneities and helps structure the reform account below.

### **Stability in EU sugar policy**

Why was sugar not part of earlier reforms? Within the CAP sugar is, arguably, unique. To produce sugar the agricultural output – primarily beet in the EU – is processed at capital-intensive off-farm facilities requiring substantial investment, which need a high degree of capacity-utilisation for profitability. This is also a ‘weight-losing industry’, so processors locate close to beet growers, creating a geographical concentration of sugar interests, providing a range of jobs in localised rural areas.

Sugar beet is, furthermore, a higher-cost source of sugar than the alternative, cane. Price support thus protected uncompetitive EU sugar vis-à-vis lower cost imports. The one exception has been the aforementioned arrangement for some ACP countries to receive the EU support price on a quota-controlled quantity of sugar exports to the EU. Thus several developing countries have benefited directly from the domestic sugar regime, with the EU seeing this as important development assistance. Another feature unique to sugar is that EU budget outlays have been funded from producer levies rather than general EU budget revenues. This made sugar largely neutral with regard to EU budget transfers, distancing it from the growing net cost of the CAP through the

1980s. Moreover food processors, major users of sugar, received transfers to help offset high prices (Interview 4), limiting their opposition to this policy.

International trade negotiations have also, until recently (see below), had little impact on sugar. One interviewee (Interview 4) argued the US would have accepted a Uruguay Round Agriculture Agreement based on cereals, the export commodity of most concern to them, had the Cairns Group not worked to include other commodities. Even so, the agreement on domestic support was based on an Aggregate Measure of Support, as sought by EU negotiators, which allowed deep cuts in trade-distorting cereals support to be traded-off against sustained support for other commodities (such as sugar). Even the market access agreement saw sugar “get away” with just a 20% cut (Interview 11). Apprehending why sugar was then reformed when it was, in the way it was, makes this an important case study, not only for scholars of the CAP but also for those with wider interests in processes of policy change.

### **Everything But Arms**

We do not look at EBA in detail (see, *inter alia*, Faber and Orbie, 2007; 2009). Two aspects of its role in the subsequent sugar reform, however, need highlighting. First, DFQF access for sugar would breach the protective wall around the EU sugar market created by price support (hence Brüntrup, 2007, referring to EBA as a ‘Trojan Horse’). Second, there is the role of Pascal Lamy who, as EU Trade Commissioner, did not merely advocate EBA but was its commissioner (small ‘c’). The presence of sugar in this EU development policy created an endogenous spillover to the domestic EU policy arena. In the adapted MS model proposed here, Lamy’s PE is understood in the context of opportunities provided by the institutional ambiguity that had developed around EU sugar policy.

### **Problems Stream**

EBA is part of the EU Generalised System of Preferences (GSP). During the 1990s, concern grew over the lack of participation by LDCs in world trade. Earlier trade agreements included special arrangements for LDCs but the 1996 Singapore WTO Ministerial meeting, saw agreement on an Action Plan for LDCs.<sup>4</sup> In September 2000, the United Nations Millennium Summit led to the “Millennium Declaration”. Under Point 15, the signatories resolved “to address the special needs of the least developed countries”, with a ‘Conference on the Least Developed Countries’ to be held in May 2001 in Brussels. Point 15 included a specific call for industrialised countries “To adopt, preferably by the time of that Conference, a policy of duty- and quota-free access for essentially all exports from the least developed countries”. EBA represents the EU response. It was Commissioner Lamy who decided the EU would have a “full monty” response (Interview 8), an approach influenced also by a desire to gain LDC support for the EU in the WTO Doha Round talks. Lamy saw problems for three commodities with DFQF that, it was felt, could be overcome with transition periods: bananas, rice and, most problematic, sugar (Interview 8).

### **Politics Stream**

There was strong opposition from the sugar sector to sugar’s inclusion in EBA, given the threat to the high-price regime. That said, these interests were hamstrung by the fact that opposition to sugar’s inclusion could be painted as opposition to EBA and a policy helping the poorest countries (Interview 11). Second, the speed with which the EBA proposal was put together (Interview 8) caught DG-AGRI totally by surprise

(Interview 7). It was “whipped” through the Commission “before anyone had woken up to what was going on” (Interview 11). That said, it was suggested even Agriculture Commissioner Fischler recognised EBA would be meaningless if it did not include commodities LDCs could export – such as sugar (Interview 13).

### ***Policy Stream***

Agreement on EBA, largely as proposed, came in February 2001, just half a year later. In the interim, the goal for sugar interests was primarily damage limitation. Given the infeasibility of excluding sugar, attention turned to safeguards, already part of GSP, such as the monitoring of imports (Interview 8). A key goal was negotiating a longer transition period than originally proposed for DFQF access to start, to 1 July 2009 (moved, in 2007, to 1 October 2009). Several interviews confirmed this was the best deal available to EU and ACP producers. Indeed, the delay would also benefit LDC producers, giving them time to prepare for and be better able to benefit from DFQF access (Interview 1).

### ***EBA and the Opening of a Window of Opportunity***

Interviews revealed Lamy had been absorbing ideas about DFQF for LDCs for at least a year (eg Interview 2), but it was in 2000 that the opportunity arose for him, as Trade Commissioner, to develop a proposal that could withstand opposition from sectoral interest groups and some member states. One interviewee (Interview 7) distinguished between DG-TRADE, and Lamy and his Cabinet, referring to the latter as “the political level” who understood the implications of EBA for the EU sugar regime (also Interview 8). Pro-CAP reform member states supported EBA as they saw this as a way to “get into the more protected CAP regimes” (Interview 2).

Sugar’s presence in EBA thus created an endogenous spillover to the domestic CAP sugar regime: Lamy, although outside the traditional agricultural policy community, had a direct impact on that community: EU sugar reform was required as a direct result of Lamy’s decision regarding the product coverage of EBA. This was aided by the turnover of Commission officials in DG-AGRI affecting the potential for defensive, status quo-protecting PE. Sugar once had one of the largest sectoral Market Units – with many staff having worked on sugar for many years. Over time the size of the Unit fell, while staff movements brought in people from other commodities who were generally less invested in the *status quo ante* and more receptive to reform ideas, given their experiences with other agricultural commodities (Interview 11).<sup>5</sup>

Importantly for understanding the timing of sugar reform, however, the long transition period meant EBA was not of immediate concern to EU sugar (Interview 12): the endogeneity of the spillover opened the sugar reform window, but the precise details of the EBA agreement meant the window would remain open for an extended period. Whilst it seems reasonable to assert that EU sugar reform would eventually have resulted because of EBA, the exact timing and nature of the reform agreed were influenced directly by the outcome of the WTO dispute (see below). This, we argue, acted as a focusing event that imposed a binding time constraint for sugar reform.

### **The WTO Sugar Dispute as a Focusing Event<sup>6</sup>**

Late in 2002 Australia and Brazil (joined in 2003 by Thailand) launched actions against the EU sugar regime. The essence of the case was that the EU was exporting with subsidy a quantity of sugar beyond its Uruguay Round commitments. This had

two elements. First, it was argued sugar produced beyond quota ('C-sugar'), which had been excluded from the export subsidy commitment schedule as it should be exported at the world price without subsidy, was being cross-subsidised from supported within-quota production. Second, the EU exported a quantity of domestically-produced sugar equal to the quantity imported under the Sugar Protocol. This was addressed in 'footnote 1' of the schedule that the EU believed, wrongly the complainants argued, exempted it from the export subsidy commitment. The outcome, which upheld both complaints, meant the EU had to make significant cuts in subsidised exports (in 2000/01, subsidised EU exports exceeded the agreed limit by over 2.8 million tonnes). The ruling on the cross-subsidisation of C-sugar exports drew, in part, on an earlier AB ruling in the Canada Dairy case,<sup>7</sup> an example of an exogenous spillover consistent with Kingdon's precedent-setting use of the term.

Several factors explain the timing of the WTO action. First, the Uruguay Round Agreement's transitional 'implementing period' ended in 2000. Only then could an assessment be made of subsidised exports relative to commitments (Interview 3). Then followed negotiations amongst interests (sectoral and governmental), notably in Australia and Brazil, as the cases were prepared. This was completed first in Australia; there was then a sense of being kept waiting by Brazil (Interview 3). The Brazilians, however, were also preparing an action against the US cotton regime – and Brazil felt the best strategy was to bring both cases simultaneously. They thus waited on sugar until cotton prices suited that other case (Interview 6). The length of the sugar case was then determined by WTO processes. These factors determined when the EU needed to begin its response to the ruling although, as discussed later, there was further disagreement over the speed of the response.

### **Sugar as Odd-One-Out**

We seek to extend the notion of spillovers, which for Kingdon are exogenous, to include endogenous spillovers as factors in policy change. Far from mutually exclusive, it is through careful analysis of the timing of endogenous and exogenous spillovers that we suggest the causal mechanisms involved in sugar reform. Thus the opening of the window of opportunity for reform of the EU sugar regime also offered those seeking a shift in CAP support to de-coupled direct payments an opportunity to move on sugar, following the precedent set by reformed commodities. The sugar regime, subject to a process of review every five years, had been rolled-over in 2001. There was an interim review in 2003, but also a sense of needing first to 'finish the job' on the arable and livestock regimes (Interview 8). Following the 2003 reform, however, sugar was out of line with the philosophy of de-coupled payments.

### **Explaining the Details of EU Sugar Reform: price and quota cuts**

For many years the fundamentals of the sugar regime remained unaltered, with a strong policy community helping to preserve the *status quo*.<sup>8</sup> By 2005 the above forces had combined to create an irrevocable pressure for reform. EBA was crucial, although the transition period for sugar removed the need for an immediate reform response. Several interviewees argued it was thus the WTO ruling that created the more urgent reform pressure (Interview 12), especially as the AB report could not be appealed (Interviews 13, 15). One interviewee (Interview 9) argued that, of itself, the 2003 CAP reform and sugar's growing exceptionalism would not have been enough to force change on sugar by the end of the current five-year period: other factors were needed. Another (Interview 10), however, felt internal pressure had led to reform,

with EBA and the WTO determining timing: indeed, several interviews revealed pro-reform elements present within DG-AGRI, the lead body in any CAP reform proposal. Also, by 2004 sugar was no longer seen as untouchable. This grew out of not only the sugar case but also, through an exogenous spillover, from the banana case showing what WTO dispute settlement could achieve (Interview 2).

Other interviewees identified important changes occurring to the leadership of DG-AGRI. One felt Commissioner MacSharry believed sugar's exceptionalism could survive (Interview 12). Another argued that at the time EBA was proposed Lamy felt DG-AGRI, now under Commissioner Fischler, would not take on sugar reform (Interview 8), although some believed Fischler would tackle sugar when the time was right – for which the WTO ruling was critical (Interview 12). This brought several senior Commission officials round to the way of thinking of pro-reform member states such as the UK (Interview 11).

An interesting view from within DG-AGRI (Interview 9) was that it was “fortunate” the pressures on the sugar policy came when they did, as it made it easier for DG-AGRI to propose reform. This raises an important issue regarding control of the policy window. Kingdon (2003: 205-206) talks both of problems being identified then solutions sought and vice versa: “solutions searching for problems” as Zahariadis (2008: 519) puts it. DG-AGRI, however, knew the problem and they had a solution: to extend SFPs to include sugar. What they lacked was the window to exploit – and, by implication, the inability or unwillingness to open the window themselves.

More open to contestation were the details of the reform, especially the scale of price and quota cuts. The WTO ruling required reductions in subsidised exports and in spending on export subsidies. This can be achieved by cuts in production, for example through quota cuts, to reduce exportable surpluses. Reduced support prices would lower both unit export subsidies and production incentives; with price *and* quota cuts being mutually reinforcing. Discussions in the WTO Doha Round were, however, moving towards eliminating subsidised exports. For EU sugar, an average world-EU price gap of about 300% made a reform based on price cuts alone unlikely. Moreover, the deeper the price cut the greater the cost of offsetting direct payments to the EU budget. The more likely option was a more modest price cut plus a large quota cut. Although there was no obligation yet on the EU to eliminate subsidised sugar exports, such a move would enable the Commission, on behalf of the EU, to take more of a leading role in the WTO talks.

A key unknown in the sugar reform debate was the magnitude of DFQF imports under EBA. Estimates varied greatly over both ‘direct’ imports and also the potential for ‘triangular trade’, where LDCs would export domestic production to the EU at prices above world levels, then import from elsewhere at the world price to cover domestic demand. Crucially, price cuts would reduce the incentives to export to the EU and limit the quota cut needed to balance the EU market. DG-AGRI were predicting higher imports than DG-TRADE, which may explain a price cut proposal deeper than many expected given the WTO ruling (Interview 9). Importantly also, EU producers would be compensated however deep the price cut: a feature of the interviews was how much more sanguine producers were over the reform than processors.

### **Explaining the Timing of EU Sugar Reform**

The EU reform proposals were published within weeks of the WTO AB decision and set the 2006/07 crop year to begin implementing the reform. The WTO action had been brought under both the Agreement on Agriculture (AoA) and the Subsidies and Countervailing Measures (SCM) Agreement: if ruled against, the defendant must respond “in a reasonable time” under the AoA, but “without delay” under the SCM (Interview 3). The Panel report referred only to the AoA. The AB report criticised this but did not rule differently using the SCM. There followed WTO arbitration, with the complainants and the EU debating the meaning of “reasonable time”. Although the complainants, especially Australia, felt the EU response was too slow, the domestic reform process then underway was allowed to progress without further external influence. Further talks led, in June 2006, to an agreement between the EU and Australia that the latter could return to the WTO if the EU reform failed to deliver full compliance with the Panel ruling,<sup>9</sup> which kept pressure on the EU (see below).

Another, institutional, factor influencing the timing of the reform was that the UK, a long-time supporter of sugar reform, held the Chair in the Council of Ministers in the latter half of 2005. This gave them the opportunity to utilise the pressures on sugar to achieve agreement during this period. Thus whilst it is normal for representatives of the country in the Chair not to engage much in reform discussions, with sugar the UK said more and influenced debate more than was usual (Interview 13).

The political agreement of November 2005 was, however, only the beginning. It was soon realised an initial compulsory quota cut would have to be imposed, as there was insufficient time for the schedule of planned quota cuts to be achieved voluntarily. This was introduced into the legislation published in February 2006 (Interview 1).<sup>10</sup> Also, some member states found ways of avoiding quota cuts to their (relatively inefficient) domestic industries, resulting in further amendments to the legislation in September 2007. One interview (Interview 12) revealed admiration for how the Commission approached the reform. The initial price cut helped shock people into realising the reality of policy reform. Moreover, despite member state obfuscation the Commission, over a two-year period, got the policy to the point where it could respect the obligations and pressures faced. Even so, one interviewee was reluctant to talk about sugar policy ‘reform’ (Interview 13), as the difficult policy tools were still in place and EU prices were still about twice world levels.

### **Conclusions**

The multiple streams model, first developed by Kingdon in the US, is being used increasingly in the study of EU policy-making. However, early adaptations of the model for non-US applications have revealed a theoretical underdevelopment in some of its central components. In this paper we interpret the key notion of ambiguity to mean institutional ambiguity. In the EU, there is a complex decision-making structure with overlapping institutions lacking a clear hierarchy of authority. This ambiguity is amplified when considering international decision-making structures; and it allows for spillovers between policy areas to be endogenous as well as of the exogenous form discussed by Kingdon. This reveals novel features of policy windows, notably their duration, which create opportunities for active policy entrepreneurship to contest the control of windows of opportunity for policy change.

The 2005 EU sugar policy reform is an important case in itself, but also a potentially rich and informative one with more general lessons for situations where trade policy framed by the moral imperative of development in the poorest countries and regions of the world is integrated with two other trade policy frames: trade policy as protecting long-standing EU domestic producer interests and trade policy as the enforcement of, and compliance with, the WTO institutions governing world trade.

We argue a full understanding of the EU sugar reform must draw on three distinct reform pressures or explanatory events, linked by endogenous spillovers: the 2001 Everything But Arms agreement; the 2005 WTO ruling against subsidised exports under the extant CAP sugar regime; and sugar's increasingly anachronistic retention of protectionist price-support structures. EBA was developed to provide trade assistance to the least developed countries, but it was driven by Commissioner Lamy, who was fully aware of the impact it would have on the EU sugar policy. Thus the initiative of someone outside of the traditional agricultural policy institutions in sugar policy-making created a spillover that would have a profound effect on sugar policy. It was the creation of a fixed date imperative, that allowed the interests of the large group of the poorest LDCs into the EU policy-making process.

That said, EBA included a transition period, as a result of which the WTO ruling created the more urgent reform pressure: EBA opened a policy window – sugar reform had to come – but the window was then held open, during which time WTO pressures came to bear on EU decision-makers and DG-AGRI in particular. Our research has traced changes within this policy institution, resulting in the ascendancy of officials with shared and well-established ideas of the problem and solution for sugar policy, drawing on other reformed CAP sectors as a precedent, but who had until that point lacked the opportunity to act. One interviewee (Interview 5) expressed doubts over whether the WTO ruling, instigated by an action brought by his country, “caused” the EU reform. What our analysis has shown is that this was not sufficient, by itself, to explain fully the reform implemented; but was a key factor that, with EBA and sugar's growing exceptionalism, led finally to a substantial reform of the last major unreformed sector under the CAP.

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## Endnotes

<sup>1</sup> Ackrill thanks the Leverhulme Trust for financial support (Research Fellowship RF/7/RFG/2007/0152); and to the Centre for Governance & Public Policy, Griffith University, Brisbane, for kind hospitality during 2007. The authors thank all the individuals interviewed during the course of this research for their time.

<sup>2</sup> Sabatier (2007: 326-330) argues for a more fundamental consideration.

<sup>3</sup> Initial political agreement was reached in November 2005, but some authors date the reform to 2006, when the published legislation included changes to that initial agreement. Further changes were agreed in September 2007 and only in 2009 did the Commission declare the reform process to be concluded (European Commission, 2009).

<sup>4</sup> See, *inter alia*, WTO 2004.

<sup>5</sup> This interviewee also highlighted these incomers' lack of understanding of the unique structural characteristics of the sugar industry.

<sup>6</sup> In this section we outline salient features of the case. All case documents are available on the WTO website (DS265 for Australia, DS266 for Brazil, DS283 for Thailand). See also Ackrill and Kay, 2009.

<sup>7</sup> DS113, all documents for which are also available on the WTO website.

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<sup>8</sup> In 1990 a group of processors proposed a “restructuring fund” for the industry: they foresaw change and wanted it on their terms. But an informal Agriculture Council meeting felt it was “too soon for measures like this” (Interview 11).

<sup>9</sup> Document WT/DS265/36 of 9 June 2006 (available on the WTO website).

<sup>10</sup> Council Regulation (EC) No 318/2006, of 20 February 2006, on the common organisation of the markets in the sugar sector. Official Journal L58, 28 February 2006, pp.1-31.

## References

- Ackrill, R. and Kay, A. (2009) ‘Historical Learning in the Design of WTO Rules: the EC sugar case’, *The World Economy* 32(5): 754-71.
- Barzelay, M. and Gallego, R. (2006) ‘From “New Institutionalism” to “Institutional Processualism”’: advancing knowledge about public management policy change’, *Governance* 19(4): 531-57.
- Borrás, S. and Radaelli, C. (2009) ‘The Politics of Governance Architectures: institutions, power, and public policy in the EU Lisbon strategy’, paper delivered to the ECPR joint sessions of workshops, Lisbon, Portugal, 14-19 April 2009. Available at: <http://www.arena.uio.no/events/seminarpapers/2009/Borras-Radaelli.pdf> (accessed 20 August 2009).
- Brüntrup, M. (2007) ‘EBA and the EU sugar market reform: development gift or Trojan horse?’, in G. Faber and J. Orbie (eds), *European Union Trade Politics and Development: ‘Everything but Arms’ unravelled*, London: Routledge, pp. 179-202.
- Corbett, A. (2005) *Universities and the Europe of Knowledge: ideas, institutions and policy entrepreneurship in European Union higher education policy, 1955-2005*, Basingstoke: Palgrave Macmillan.
- Cram, L. (2001) ‘Whither the Commission? Reform, renewal and the issue-attention cycle’, *Journal of European Public Policy* 8(5): 770-86.
- Daugbjerg, C. and Swinbank, A. (2008) ‘Curbing Agricultural Exceptionalism: the EU’s response to external challenge’, *The World Economy* 31(5): 631-52.
- European Commission (2009) ‘CAP Reform: Commission welcomes success of EU sugar reform as restructuring process concludes’, Press Release IP/09/366, 6 March 2009 (accessed 7 March 2009).
- Faber, G. and Orbie, J. (eds) (2007) *European Union Trade Politics and Development: ‘Everything but Arms’ unravelled*, London: Routledge.
- Faber, G. and Orbie, J. (2009) ‘Everything But Arms: much more than appears at first sight’, *Journal of Common Market Studies* 47(4): 767-87.
- Haas, E.B. (1968) *The Uniting of Europe: political, social, and economic forces 1950-1957*, Stanford, CA: Stanford University Press.
- Kerr, P. (2002) ‘Saved from extinction: evolutionary theorising, politics and the state’, *British Journal of Politics & International Relations* 4(2): 330-58.
- Kingdon, J.W. (2003) *Agendas, Alternatives, and Public Policies*, 2nd ed, New York: Longman.
- Natali, D. (2004) ‘Europeanization, policy arenas, and creative opportunism: the politics of welfare state reforms in Italy’, *Journal of European Public Policy* 11(6): 1077-95.
- Peters, B.G. (1994) ‘Agenda-setting in the European Community’, *Journal of European Public Policy* 1(1): 9-26.

- Pollitt, C. (2008) *Time, Policy, Management: governing with the past*, Oxford: Oxford University Press.
- Richardson, J. (2006) 'Policy-Making in the EU: interests, ideas and garbage cans of primeval soup', in J. Richardson (ed.), *European Union Power and Policy-Making*, 3rd ed, Abingdon: Routledge, pp. 3-30.
- Sabatier, P.A. (2007) 'Fostering the Development of Policy Theory', in P.A. Sabatier (ed.), *Theories of the Policy Process*, 2nd ed, Boulder: Westview Press, pp. 321-36.
- WTO (2004) *Special and Differential Treatment for Least Developed Countries: note by the secretariat*, WT/COMTD/W/135. WTO Committee on Trade and Development:  
<http://docsonline.wto.org/DDFDocuments/t/WT/COMTD/W135.doc> (accessed 5 August 2009).
- Zahariadis, N. (2003) *Ambiguity and Choice in Public Policy: Political Manipulation in Democratic Societies*, Washington, DC: Georgetown University Press.
- Zahariadis, N. (2007) 'The Multiple Streams Framework: structure, limitations, prospects', in P.A. Sabatier (ed.), *Theories of the Policy Process*, 2nd ed, Boulder: Westview Press, pp. 65-92.
- Zahariadis, N. (2008) 'Ambiguity and Choice in European Public Policy', *Journal of European Public Policy* 15(4): 514-30.

### Interviews

1	9/8/2007	Policy analyst, sugar company, London
2	14/8/2007	Policy advisor, international NGO, Oxford
3	30/10/2007	Senior Dept of Foreign Affairs and Trade Lawyer, Canberra
4	30/10/2007	Retired Senior Australian Trade Diplomat, Canberra
5	13/11/2007	Senior Australian Industry Official, Brisbane
6	14/11/2007	Senior Brazilian Trade Diplomat, Canberra
7	19/2/2008	Senior Official, European Commission DG-TRADE, Brussels
8	20/2/2008	Senior Official, European Commission DG-DEV, Brussels
9	20/2/2008	Officials, European Commission DG-AGRI, Brussels
10	20/2/2008	Official, European Commission DG-DEV, Brussels
11	22/2/2008	Senior Policy Advisor, sugar company, London
12	22/4/2008	Senior UK producer representatives, Peterborough
13	24/6/2008	Senior Official, Department for Environment, Food and Rural Affairs, London