## An Investigation of Interest Group Influence in the ILUC Amendment (2015/1513) Policy Cycle:

Assessing Interest Group Preferences from Public Consultation Submissions

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## **Declaration of Authorship**

I, the undersigned hereby declare that I am the sole author of this thesis. To the best of my knowledge this thesis contains no material previously published by any other person except where proper acknowledgement has been made. This thesis contains no material which has been accepted as part of the requirements of any other academic degree or non-degree program, in English or in any other language. This is a true copy of the thesis, including final revisions.

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### Abstract

This study seeks to investigate the influence of external Interest Groups on the EU amendment (2015/1513) addressing concerns surrounding indirect land use change due to the promotion of biofuels. Focusing on public consultation submissions, the research draws upon qualitative document analysis, whereby the policy preferences of different Interest Groups are identified and compared with the European Commission's policy proposal (*'policy formulation'*) and the resulting amendment agreed upon by the co-legislators, the European Parliament and European Council (*'policy output'*).

The research finds that the policy outcomes occupy a middle ground that provides stability for the agri-fuel industry, while introducing limits to address growing environmental concerns. Presented with a wicked policy problem of its own creation, the EU managed to find political consensus on a divisive issue while signalling its intention for the direction of future policy. In the short-term, antilegislation groups were successful in questioning the scientific basis for new policy, limiting the effect of these measures on their industry. However, pro-legislation preferences were realised with the successful adoption of new limits on biofuel contributions, the overall direction of the amendment, and signals for further environmental precaution in the near future.

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"In a world seeking solutions to its energy, environmental and food challenges, society cannot afford to miss out on the global greenhouse gas emissions reductions and the local environmental and societal benefits when biofuels are done right. However, society also cannot accept the undesirable impacts of biofuels done wrong."

- Tilman et al., 2009

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## **List of Abbreviations**

This paper uses a number of abbreviations throughout. While these terms are used in full at first point of usage, the reader may wish to refer to this list thereafter.

| iLUC | - | Indirect Land Use change   |
|------|---|----------------------------|
| LUC: | - | Land Use Change            |
| EP:  | - | European Parliament        |
| EC:  | - | European Commission        |
| EU   | - | European Union             |
| GHG: | - | Greenhouse Gas             |
| RED  | - | Renewable Energy Directive |
| FQD  | - | Fuel Quality Directive     |

| Influence | Group | Abbreviations |
|-----------|-------|---------------|
|-----------|-------|---------------|

| CI          | - | Conservation International               |
|-------------|---|--|
| COPA-COGECA | - | European farmers union                   |
| EBB         | - | European Biofuels Board                  |
| MPOB        | - | Malaysian Palm Oil Board                 |
| SEPA        | - | Scottish Environmental Protection Agency |

## **Chapter One: Introduction**

This chapter provides a brief overview of the core elements of relevance to this research. This background serves to provide the rationale for research of this nature while situating the policy debate within the EU and global context. It presents a background to the rest of the thesis by highlighting the main issues faced by the EU in the fields of climate change, greenhouse gas emission targets and the promotion of biofuels as a renewable energy source. Following this, the research question is situated and the layout of the remaining chapters is detailed.

The world is currently undergoing continual drastic inclines in energy demand - it is predicted that by the year 2030, the world's population will demand 50% more food, 45% more energy and 30% more water (UN, 2012). In light of the threats posed by climate change, these demands appear even more stark. Climate change is having a profound impact on societies, countries and industries across the globe. With the world's dependence on fossil fuels driving this phenomenon, it is clear that there is a need to shift to cleaner, more sustainable sources of energy that do not pose a direct threat to global food security (Parry, 2012). In the broader context, countries are - for the most part- seeking to shift towards more sustainable forms of energy provision and lower per-capita carbon emissions output. Biofuels have been identified as one of the most viable alternatives to fossil fuels in recent years. They present an attractive opportunity for a number of reasons: they can be used in place of current fuels -e.g.mixed with traditional petrol or diesel and used in transport; biofuel has a high energy density and thus is suitable for modern demands; it is not an extractive source and can be grown sustainably; as an agricultural product, it can provide a boon for the agroeconomy and rural employment; and lastly, it is a renewable option amongst others that suffer issues surrounding intermittency and storage e.g. wind and solar.

As a result of these attributes, biofuels were at the centre of the EU's Renewable Energy Directive (RED) and Fuel Quality Directive (FQD), envisaged as a key contributor to a reduction in greenhouse gas (GHG) emissions within the transport sector. The attributes of biofuels are multifaceted and potentially very significant. However, their promotion has not been without controversy.

Providing emissions savings at face value, biofuels were accused of being part of a domino effect referred to as indirect land use change (iLUC), as it was found to potentially compete with food production for the use of productive land. As such, the Renewable Energy Directive proved contentious as it came to light that it may be inadvertently causing deforestation in third countries and affecting agricultural markets, leading to increases in food prices. iLUC and the surrounding research proved extremely divisive and provided a window within the policy cycle for Interest Groups to try and exert influence over the direction of future biofuel legislation. The debate attracted the attention of a wide variety of groups including private companies, agricultural associations, environmental NGOs, EU member states and third countries, amongst others.

This research focuses on a public consultation opened by the European Commission in advance of its policy proposal on iLUC to the European Parliament and European Council. It seeks to analyse the preferences outlined in the consultation submissions in order to assess their success in influencing the outcomes from the policy cycle.

While legislation itself can only be proposed by the European Commission and must be ratified by the European Parliament and European Council, the role of outside Interest Groups in both the formulation and shaping of European public policy should not be overlooked. Policy outcomes and democratic legitimacy within the EU is dependent on the extent and distribution of political influence among Interest Groups. While the level of influence may vary, lobbying activity in Brussels has grown considerably in recent years, highlighting the growing importance and extent of interest representation at the EU policy formulation level. Failing to account for the influence of these interest groups would represent an incomprehensive review of the EU's policy making apparatus.

This study draws upon quantitative document analysis whereby the policy preferences of different Interest Groups are compared with the European Commission's policy proposal (*'policy formulation'*) and the resulting amendment agreed upon by the co-legislators, the European Parliament and European Council (*'policy output'*). As a result, this paper identifies the preferences which were most successful and the winners and losers from the decision making process. Through the analysis of submissions and comparison of identified preferences with the policy

outcomes, this research aims to pin down the elusive effects of interest group influence on a specific and highly complex EU policy amendment.

The European Union has been identified by its own research as a norm setter in renewable energy technology (European Commission, 2015), and by others as a norm entrepreneur in the field of climate security (Zwolski & Kaunert, 2011). In focusing on a highly complex and divisive policy issue, this research is not only interesting in its analysis of interest group influence, but also how the EU positions itself between industrial interests and environmental interests in the midst of incomplete evidence for a science based policy design.

#### Layout

This brief chapter has presented an introduction to some of the existing literature, has situated this study contextually and has clarified the rationale for the research.

Chapter two presents a review of the main literature related to this research, focusing on defining the core concepts and their interrelation. With biofuels, understanding the varying definitions, sources and generations is necessary for understanding their benefits and pitfalls, as well as how they may be effectively promoted in the regional, economic and environmental context. A basic understanding of biofuel sources is crucial for understanding the iLUC debate and this research analysis. This chapter also details an aforementioned phenomenon closely related to biofuels - 'indirect land use change' – a contentious topic in bioenergy promotion and the EU's renewable energy strategy, and the central topic to the policy debate in focus for this research. Thereafter, the chapter details the nature of Interest Groups at EU level, where they fit in the EU's legislative process and how they can influence policy making. It also covers public consultation mechanism and the importance of policy formulation at the European Commission (For a timeline of the relevant EU biofuel legislation see figure 1).

With Chapter Three begins the second part of the thesis. This chapter is concerned with the primary research and outlines the methodology used in the selection and analysis of data for the purpose of this paper. It provides the justification for the use of qualitative document analysis and the preference attainment approach used to compare Interest Group policy goals with the final policy outcomes.

| Year                 | Timeline   European Union and the Promotion of Biofuels   |
|----------------------|---|
| 2003                 | EU establishes Biofuels Directive (Blending target 5.25% by 2010)   |
| 2009                 | Renewable Energy Directive (10% RE target for Transport by 2020)<br>Fuel Quality Directive Amendment (6% reduction in GHG intensity in fuel)  |
| 2010                 | Consultation: Indirect Land Use Change and Biofuels (Focus of this research)  |
| <b>2010</b> (Dec)    | European Commission report COM (2010) 811 on ILUC. This report provided conclusions from the Pre-Consultation and Consultation, providing a background to the proposal and impact assessment. |
| 2011                 | <ul><li>4 April to 14 June - 10% contribution consultation</li><li>'Accounting methods and conditions for the 10% renewable energy in transport target'</li></ul>                             |
| <b>2012</b> (Jan)    | The EP Committee on Environment, Public Health and Food Safety organised a workshop<br>on biofuels and indirect land use change.  |
| <b>2012</b> (Oct)    | EC proposes a Directive to amend RED and FQD (cap conventional, promote advanced).<br>The proposal is accompanied by an Impact Assessment on ILUC.  |
| <b>2013</b><br>(Feb) | The EP Committee on Environment, Public Health and Food Safety organised a workshop<br>on biofuels and indirect land use change.  |
| <b>2013</b> (Sept)   | European Parliament Voted on (and adopted with a number of revisions) Proposed Amendment.   |
| 2015                 | ILUC Amendment (215/1513)   |
| 2020                 | EC stressed need for a post-2020 policy   |

CEU eTD Collection

Figure 1: Timeline - The EU and Biofuel Promotion

It also outlines any limitations imposed by the employment of this methodology, with the scope of the analysis, or by the nature of the study itself.

Chapter Four presents the main themes that emerged through the analysis of the data (the consultation submissions). It first provides a detailed overview of the preferences and policy objectives of each Interest Group before presenting a comparison of these preferences with the policy proposal by the European Commission and the final amendment adopted.

Finally, in Chapter Six, I conclude the thesis with some final thoughts on the research topic – acknowledging limitations and providing suggestions for further research.

## **Chapter Two: Literature Review**

#### **Introduction**

The first part of this chapter provides a definition of the terms used and concepts that underpin this research topic. The first of these include the term 'Biofuel', the concept of 'Indirect Land Use Change' and 'Interest Groups'. It is important to understand the nature of each in order to fully comprehend both the complexity of the policy debate and the analysis provided later in this paper. Where possible, this chapter endeavours to provide statistics that contribute to a greater sense of the context within which the debate is situated. The policy arena is complex and has few objective and empirical results upon which one could effectively construct a watertight policy.

Following this, the chapter provides an overview of the EU legislative process and the position of Interest Groups in relation to the EU institutions. It also outlines the role of external stakeholders in the EU policy process. This section provides the theoretical foundation for the research. It concludes with a brief overview of wicked policy problems and the position of the EU at the centre of a divisive debate, reiterating the rationale for this research in light of the concepts and literature covered throughout the chapter.

#### **Definition of Terms and Concepts**

The following terms and concepts are central to the policy debate and scientific study surrounding iLUC claims. The length of this paper and the scope of its research precludes an in-depth account of the extensive literature and scientific analysis relevant to the biofuel-iLUC policy debate at the EU. However, this chapter will endeavour to provide a concise overview of the conceptual elements crucial to the understanding of the debate and will also consider the literature most relevant to this research on the influence of Interest Groups within the consultation window of the EU policy cycle.

#### **Biofuels**

Biofuels are generally viewed as a renewable energy source in that they can be grown and regrown - a key distinction to be made with extractive fossil fuels. Biofuels are not entirely carbon free, as their combustion releases carbon back into the atmosphere. However, as this carbon stock has already been absorbed from the atmosphere by the fuel source, they are part of a closed carbon cycle that presents the potential for a carbon neutral fuel source. Biofuels within the transport sector - the

#### **Biofuel Generations**

1<sup>st</sup> Generation: This biofuel source is derived from sugar, lipid or starch directly extracted from a plant. Examples include corn, beet, cereals, oil seed rape and other vegetable oils. This can lead to an increase in the demand for biofuel related crops and as such may influence food prices by competing for land use. They may also have an impact on biodiversity and water use in some areas.

 $2^{nd}$  Generation: These biofuels are derived from cellulose, hemicellulose, lignin or pectin. The main sources include wood, organic waste, food waste and specific biomass crops. These often allow for the use of poorer quality land, but require a complex technological process for producing fuel. Technology in this area is new but improvements will bring greater efficiency.

 $3^{rd}$  Generation: This fuel type is sourced from engineered crops such as algae. These sources are generally more energy dense than other biofuel forms and do not compete at all with traditional food production or land use. They are however, not yet financially competitive and further research is needed to increase viability.

(Source: European Biofuels Technology Platform)

#### Figure 2: Generations of Biofuels

focus of EU biofuel targets - come in two main forms, i) ethanol, the primary form of biofuel in the US and ii) biodiesel, the preferred option in the EU. However, for the effectiveness of biofuels to be properly assessed one must consider the fuel's primary source. Generally termed traditional/conventional or advanced, biofuels are represented by three different generations. These generations (see figure 2) represent

different primary sources, production methods and levels of energy efficiency. The term 'advanced biofuel' generally refers to sources from a non-food source, such as waste, agricultural and forestry residues, or specific energy crops and as such don't compete with traditional agriculture for land use (IEA, 2008).

#### **Indirect Land Use Change (ILUC)**

A core issue with biofuels, as briefly aforementioned, is that their production can compete directly with traditional food crops or forestry for the use of land. Biofuels may displace the production of food crops if they are attractive for farmers, and where they don't directly displace existing agricultural production, they may encourage the expansion of land use and lead to deforestation (SWD 2015/117).

The consequences of biofuel promotion are noted in an EU staff working paper which recognised the allocation of land outside the EU for the production of biofuel. For example, a total of 3% of cropland in Argentina has been converted for the production of biofuel destined for the EU market (SWD 2015/117). The benefits of biofuels are also called into question once the deforestation or land use change is accounted for. The beneficial dividends of certain first generation crops are already in question given the amount of energy consumed in their production and processing. Deforestation also leads to the release of further carbon stock and could result in a net carbon gain (Valin et al, 2015). Directive 2009/28/EC contained targets for the use of biofuels in transport and was blamed for inadvertently causing land use change and deforestation, affecting food production. Rather than harnessing the carbon reduction potential of biofuels, it may possibly have led to a carbon gain. There are claims that the target stipulated in this Directive has a role in US deforestation (Eickhout, 2015). The EU acknowledges that most iLUC is likely to occur in places where land can be converted at low cost – outside the EU (Directive 20/15/1513). The effects of ILUC remain a contested subject and it is debated whether they may be accurately quantified with a robust modelling method (Valin et al., 2015).

#### **INTEREST GROUPS**

The term 'Interest Group' refers to any outside stakeholder with an interest in the outcome of a given policy debate. An Interest Group can range from a lone individual through to larger networks such as professional membership associations, trade unions or corporations. There are three features which underpin the definition of an Interest Group: 1) *Organisation* defines its nature, excluding incoherent movements of public opinion 2) *Political interest* is the direct attempt of the group to influence policy 3) *Informality* refers to the fact that the group does not actively seek public office but aim to influence policy through outside means (Beyers et. Al, 2008).

Interest Groups come in two distinct forms, cause and sectional groups (Stewart, 1958). *Cause groups* are those whose motives are driven by an overarching principle or belief. The interest of cause groups is often secondary and somewhat diffuse in nature, such as the protection of the environment or the improvement of social protection or healthcare. The membership of cause groups is generally not limited to any specific section of society and is open to anyone who shares these same goals or preferences as advocated for by the group. *Sectional groups*, on the other hand, seek



Figure 3: Transparency Register - Category Proportions Source: <u>Transparency register</u>

to represent and promote the interests of a particular section of society. Membership is usually restricted based on certain criteria relevant to the sections interest. The interest of sectional groups is generally of primary, material nature. Examples include trade unions, business associations or professional organisations that seek to serve the interests of their members rather than those of society overall.

The role of Interest Groups has become increasingly significant at EU level. As growing numbers of parties have sought to influence the policy agenda at the institutions, a transparency register was set up in order to keep track of group activity while also providing public information on Interest Group lobbying efforts and organisational standing. As of 2015, any organisation wishing to attend the European Parliament or European Commission must subscribe to the register (European Parliament, 2017). There are currently 11,317 Interest Groups signed on to the Transparency Register (Transparency Register, 2017).

#### The EU Legislative Process & Public Consultations

The European Commission, as the executive branch of the EU, has the sole right to propose legislation. Should it be deemed fit following the conducting of an impact assessment and/or and public consultation, the Commission presents a legislative proposal to the European Parliament and the European Council. Frequently, in the enactment of legislation, the European Parliament and European Council act as co-legislators and must agree on the proposed legislation. If there is no agreement, the proposal may go through a series of readings – essentially a negotiation and revising of the proposal- until an agreeable outcome is achieved (European Commission, 2017a).

The focus of this research relates to the policy formulation phase at the European Commission, specifically the opening of a public consultation in advance of the submission of a proposal to the EP and European Council. This represents a window of at least twelve weeks when Interest Groups are invited to submit opinions or expertise to the commission in advance of the drafting of its final policy proposal (European Commission, 2017b). The European Commission invites submissions for a variety of reasons. Bouwen (2002) demonstrates that there exists an interdependency between influence groups and public decisions makers. Both parties not only stand to benefit from interaction with each other, but are dependent on each other for the policy making process. This is referred to as an exchange of resources - the Interest Groups gain access to the policy process and as such are afforded the opportunity to influence the direction of the policy in question. On the other side, the Commission receives expert knowledge and information on what Bouwen terms the 'encompassing' interest'- in essence it helps the Commission keep a finger on the pulse of the policy preferences of different groups at both domestic and European level. By having a more detailed understanding of interests, the Commission can better gauge the form, scope and detail of a policy proposal that is more likely to succeed in finding 10

consensus or agreement with the European Parliament and European Council, the colegislators (Klüver, 2013). Most importantly however, it is argued that the Commission requires the expert knowledge that can be provided by specialist groups. Given that the Commission is the only institution empowered with the potential to initiate legislation, it is responsible for the highly complex task of compiling policy proposals on a wide variety of issues. The requirement for expertise varies depending on the complexity and scale of the issue. Some proposals are more technical than others, while some span the breadth of the EU and others are more specific in their application. Bouwen (Ibid) argues that because The Commission is significantly understaffed it is dependent on the expertise of external Interest Groups for the drafting of effective proposals. Furthermore, Klüver (2013) argues that this expertise is also required by the other institutions (European Parliament and European Council) in order to be able to comprehend the legislative proposal put forth by The Commission (2013). The importance of Interest Groups is directly acknowledged by the Parliament as part of a healthy democratic system:

'They can provide Parliament with knowledge and specific expertise in numerous economic, social, environmental and scientific areas. They can play a key role in the open, pluralist dialogue on which a democratic system is based and act as an important source of information for Members in the context of the performance of their duties.'

(European Parliament, 2017)

In addition to this interdependence between the European Commission and Interest Groups, Klüver (2013) highlights the fact that groups who are in a position to provide the institutions with the required expertise, are therefore in a position to influence the relevant policy in the direction of their preferences.

#### **Complexity in Policy Debates | Wicked Policies**

As has been alluded to in the previous section, some policy proposals are more simple in nature than others and as a result the tabling of a proposal by The Commission is a more straightforward process. Should a policy problem prove particularly divisive or complex, it may be considered a 'wicked policy problem' (Rittel & Webber, 1973). It is not that the policy issue itself is necessarily inherently 'evil', but its complexity and the difficulty in achieving consensus have proven to be a significant hurdle and have left it highly resistant to resolution. iLUC proves a uniquely complex policy problem as the potential ramifications for a shift in policy design affect a wide variety of different sectors. The debate surrounding iLUC is extremely relevant to Interest Groups associated with agriculture, economic and sustainable development, energy, the environment and trade policy. Moreover, the fact that the iLUC process that cannot be objectively observed or quantitatively measured – despite numerous studies attempting to shed light on the issue – has ensured that the policy debate surrounding it has been protracted and has failed to achieve consensus. Swamped in a debate surrounding modelling issues and claims of scientific uncertainty, iLUC has been rendered an *'archetypal wicked policy problem'* (Palmer, 2012:5).

#### **The Position of EU Decision-Makers**

The initial actions on behalf of the EU in the promotion of biofuels within the FQD and RED were well intentioned and based on the presumption that the biofuels produced and consumed within the transport sector would provide multitudinous benefits for the environment, agricultural industry and the rural economy. The transport sector was initially earmarked in a 2003 Directive (2003/30/EC) targeting the replacement of 5.75% of fossil fuels used in the transport sector with renewable forms of fuel. This Directive was replaced in 2009 with the Renewable Energy Sources Directive (2009/28/EC), outlining a strategy towards more sustainable forms of energy by the year 2020. The directive increased the target for biofuels within the transport sector to 10%. The targeting of transport for renewable energy is logical, with greenhouse gas emissions from aviation, shipping and road traffic accounting for roughly 25% of the EU's total (Baumann, 2015).

These initial policies which promoted biofuels had survived prior deliberation and had been shaped by the previous compromises in the policy cycle. Given that the institutions had already found consensus on the issue, it was anticipated that any shift away from the status quo would encounter resistance (Baumgartner et al., 2009). Therefore, groups who argued for the perpetuation of the status quo might be more successful in influencing policy debate than those seeking significant change.

Given its nature, the ILUC debate has proven an extremely salient policy topic, engaging a wide variety of Interest Groups from different policy angles. While biofuel promotion may represent a profit for some and a plague for others, the EU finds itself at the heart of a policy debate - which it essentially created through its earlier policies – with a significant number of vested interests seeking to influence the outcome of the protracted policy cycle. As noted by Palmer (2012), the focus on the threat of iLUC has treated the phenomenon as though it would be simply quantified or observable through scientific assessment - but it is not. The results of any such modelling exercise will always be subject to criticism and debate, ensuring that the EU won't find consensus amongst the influence groups involved. As highlighted by Tilman et al., (2009), the world cannot afford to ignore the potential for environmental solutions and societal benefits inherent in the use of biofuels - but neither should suffer the consequences of 'biofuels done wrong'. The complexity of its position means that the EU would inevitably find it difficult to find an acceptable policy option for the future of its FQD and RED, and would face significant hurdles in enacting forward looking legislation.

#### **Chapter conclusions**

This chapter has defined the terms and concepts that underpin this research. It has taken into account key literature, including research, theory and policy that are of relevance to this topic.

It is clear that the initial legislation, which was well intended, unfortunately allowed many biofuels to be grown in a manner which is counterproductive. Should the EU wish to effectively reap the benefits that biofuels can offer in both the energy and rural development spheres, policy must be carefully developed to promote biofuel production that is effectively situated in the regional context of production. Tilman et al., (Ibid) argue that any policy should target, in tandem, land and water efficient food production, a reduction in greenhouse gas emissions and the prevention of deforestation and loss of habitat. However, iLUC represents a complex policy problem with considerable conflicting information, inconsistent results from various studies and significant vested interests on both sides. The public consultation conducted in 2010 welcomed submissions from external Interest Groups to provide further expertise and analysis of the policy issue with which they were faced.

This chapter has shown that, in the absence of concrete scientific conclusions for evidence based policy making, the European Commission would be particularly open to external influence. As such, Interest Groups were well positioned to shape the EC policy proposal with strong, convincing submissions.

'If policy proposals are highly complex, the need for external expert knowledge is very high and the European institutions are particularly open for an exchange with interest groups'.

(Klüver, 2013;58)

The role and existence of Interest Groups is an extremely important part of a healthy, functioning democracy and yet it receives relatively little attention in comparison with the operation of the main institutions throughout the policy cycle at the EU. This chapter has highlighted the theoretical basis for the research approach outlined in the the following chapter. It has also situated this research within the context of the iLUC policy debate while providing the rationale the chosen focal point within the EU policy process.

## **Chapter Three: Research Methods**

#### **Introduction**

This chapter outlines the research methodology used in the analysis of data for this thesis. Part one details the data collection and rationale for the cases selected for the purpose of this research. Possible limitations associated with the data used and the case selection are also outlined. Thereafter, the research approach and use of preference assessment is detailed while detailing the benefits and pitfalls of using this method. The chapter then provides a justification for the use of qualitative methods and the choice of document analysis in particular. Lastly, the chapter outlines aspects related to the treatment of data and its preparation before providing a brief conclusion.

#### Data Collection & Case/Submission Selection

The data used for this research was submitted to the European Commission by external Interest Groups as part of a public consultation on the effect of EU biofuel promotion on iLUC<sup>1</sup>. In July 2010 the EC published a series of analyses on iLUC and opened a public consultation seeking to determine if the public believed they presented a solid basis for action on their behalf. A total of 145 submissions were received over the period of the consultation window (COM 2010, 811).

The stakeholders partaking in the consultation were split into categories by the EC: individuals, public authorities and organisations. Following analysis of the submissions, eight submissions were chosen for detailed consideration in this research from the organisation and public authority categories. Submissions from individuals were not included in this analysis for a number of reasons. Firstly, three of the five individual submissions were not in the English language. Secondly, the remaining two were both pro-legislation, with one of them affiliated to an NGO which had also entered a submission as a registered organisation. Thus, the individual information was either inaccessible or the preferences it outlined were already represented by the

<sup>&</sup>lt;sup>1</sup> All responses to the public consultation are available at: <u>http://ec.europa.eu/energy/renewables/consultations/2010\_10\_31\_iluc\_and\_biofuels\_en.htm</u>

organisation submission included in this research. Registered organisations were considered ahead of non-registered organisations as these Interest Groups are listed on the EU's transparency register<sup>2</sup>. This ensures that the included submissions are by organisations that have made public their advocacy/lobbying activities and have subscribed to a code of conduct as outlined by the EU.

Case selection was based on the quality, length, accessibility and comprehensiveness of the content. Submissions which appeared incomplete or were simply submitted in order to express support for other submissions, were not included. The selection also endeavoured to achieve a balance in both the arguments made and the positioning of the organisation. Therefore, the selection includes private industries outside of the biofuel sector, prominent environmental NGOs, biofuel/agricultural representative organisations and public authorities both in and outside of the EU. Case selection also ensured that there was an even split of submissions both pro-legislation and anti-legislation.

| Case Selection                           |                               |  |
|--|-------------------------------|--|
| Pro-Legislation                          | Anti-Legislation              |  |
| - Exxon Mobil                            | - European Biofuels Board     |  |
| - Unilever                               | - COPA COGECA                 |  |
| - Conservation International             | - Malaysian Palm Oil Board    |  |
| - Scottish Environment Protection Agency | - Mission of Brazil to the EU |  |

While not achieved for every nuanced argument in the submissions, the analysis of these submissions did achieve saturation point with regards to the core arguments and preferences of the Interest Groups.

<sup>2</sup> The EU Transparency Register is available at: <u>http://ec.europa.eu/transparencyregister/public/homePage.do</u> 16

#### **Research Approach**

For this research, the concepts and arguments proved to be extremely complex and relate to a debate that, for many, has no conclusive scientific evidence. As such, a quantitative approach would not have enabled the researcher to gain a detailed, rich understanding of the nuanced arguments and positions of the various stakeholders who submitted contributions to the Public Consultation. Moreover, a qualitative method not only enables the researcher to identify themes in the midst of complexity, but also facilitates the identification of interrelated preferences and the comparison of submissions which present subtle variances of similar preferences. While a quantitative approach would have enabled the analysis of significantly more submissions – potentially across numerous consultations-, qualitative methods enable an inductive analysis that may lead the researcher to pursue certain elements of the submissions in more detail than might have been anticipated, such as the inclusion of referenced material or preferences which may not have arisen in the quantitative analysis of the text. In sum, this form of analysis enables a deeper assessment of the importance or gravity of a policy goal for a particular interest group, as well as its relevance within the given context. With that said, this analysis is intended to be based on a literal reading of the text. As such, the researcher seeks to understand the arguments directly as represented rather than through a reflexive or interpretive engagement with the text (Miller & Crabtree, 1999).

#### Public Consultation Submissions

The focus on submissions to the public consultation provides the best insight into interest group preferences for a variety of reasons. Introduced in 2000, online consultations are now a common mechanism used by the commission in the formulation of important policy proposals. This consists of a twelve-week minimum window whereby public submissions are welcome in advance of the EC's compiling a policy proposal (*European Commission, 2017b*). For interest groups, the consultation represents the easiest and most direct avenue for a submission of opinion and policy goals (Klüver, 2013). While it may not be the only means through which an interest groups seeks to have its preferences translated into executive policies, it is a clear representation of the groups preferences on a specific policy issue. Thus, the policy 17 proposal and eventual outcome can be compared with these preferences in order to determine which interest groups were most successful influencing the policy direction, even if other avenues of influence were pursued outside the public consultation mechanism. As such, it represents the most pointed and relevant focal point for the assessment of interest group preferences for the purpose of comparison with policy outcomes. Furthermore, given that the consultation is conducted in advance of the EC proposal, it *'offers the most fertile opportunities for exerting influence'* (Thomson & Hosli, 2006: 15). Given that the EC presents the proposal, it also has a greater agenda setting role, making it more difficult for other institutions to modify the policy (Ibid, 2006:14). As such, the policy formulation stage is of crucial importance to Interest Groups seeking to influence the final policy output.

In order to assess the effect of influence groups on the policy process – and to see how well their arguments are represented in the final legislation – the *preference attainment approach* (Dür, 2008) is utilised. A comparison of the preferences outlined by the interest groups submissions during the policy formulation stage with the resulting proposal by the EC and the final legislation adopted by the European Parliament and the European Council, enables the researcher to identify the successful arguments, the winners and the losers of the policy making process.

#### **Limitations**

While this approach - aside from the more general strengths of qualitative methods -offers various advantages, it does present some limitation also. Firstly, focusing on one specific policy window within the overall policy process means that other avenues for influence available to interest groups are not accounted for in the analysis. As such, it is possible that there are other explanatory factors for the final policy outcome aside from the submissions during the consultation period. However, as aforementioned, the consultation is an early, formal avenue for influence and can be accepted as the best representation of an interest groups preferences for the given policy debate. While other avenues of influence may indeed be pursued by certain groups, these submissions are the best representation of the various interest groups' policy goals. Secondly, it is possible that certain submissions coincidently align with the pre-existing views of the relevant policy maker within the EC. As such, it is difficult to ensure that the policy outcome is a direct result of an interest group's 18

submission or political advocacy efforts. However, such an alignment of preferences would be simply fortuitous – it would not hamper the researcher's ability to assess the winning/losing interest groups after the policy cycle. Furthermore, provided the complexity, uncertainty and protracted nature of the iLUC debate, it is argued that this particular policy cycle is particularly susceptible to the influence of convincing interest groups.

Lastly, submissions may represent strategic rather than true policy positions on behalf of the interest groups (Frieden, 2002). This aspect is not a concern for this research as it is only related to the policy preferences as submitted to the commission. Given that these are the only preferences received by the commission they are legitimate and represent the only true statements of preference for the purpose of influence measurement.

#### Data analysis

The unit of analysis identified for this research may be a text passage of any length. A word, sentence or longer passage of text may be coded as long as it represents an argument or preference that is relevant to the overall debate in the ILUC policy arena (Zhang & Wildemuth, 2005). Following selection, each submission was carefully analysed in order to identify the main thematic contents of the data. The data was not assessed with a coding manual. Rather, the thematic analysis of each text enabled the identification of distinct policy preferences for each interest group and served to gain a precise understanding of their positioning in relation to the final policy outcome.

#### **Chapter Conclusions**

This chapter has outlined the qualitative approach utilised in conducting this research. It is not an aim of this thesis to produce a statistical set of quantifiable results regarding the outcome of the public consultation or the policy decisions made by the EU. Indeed, many larger scale studies have endeavoured to evaluate quantitatively the rationale and scientific motive for the EU's decision making without garnering consensus. As the aim of this thesis is to trace the interest group preferences and submission arguments made in the public consultation through to the

the policy outcome, qualitative document analysis was deemed the most effective – and indeed only, suitable - approach.

## **Chapter Four: Analysis, Findings & Discussion**

#### **Introduction**

This chapter outlines the findings that emerged through the thematic analysis of the consultation submissions during the policy formulation stage, before later comparing them against the policy outcomes. The core themes identified represent the interest group arguments submitted during the consultation phase either in favour of or against further legislation addressing the contribution of biofuels to iLUC. These themes are outlined in detail and subsequently discussed in relation to the policy outcome, concepts and previous academic research in the field as outlined in Chapter Two. Through comparison with the policy outcome, this section highlights the most successful arguments submitted and identifies the winners and losers from the policy cycle.

#### **Policy Formulation: The Consultation Submissions**

For the purpose of public consultation, the EC provided a list of four questions (see Annex 1) in order to guide responses towards the information they wished to receive. While some contributions answered these questions directly – with responses of varying length – other submissions followed a different format (some presenting previous studies, longer letters of opinion often answering the questions posed but indirectly and in a different presentation). As a result of these differing formats and because thematic identification an aim of this research, the analysis will be presented in terms of the themes/arguments identified, rather than assessing responses in a structure aligned to the questions posed by the European Commission.

Given the divisive nature of the policy debate, certain themes identified were addressed in greater detail by some submissions when compared with others. This is obvious in the submissions which dedicated significant weight to the critique of models used in previous studies on iLUC, while others were occasionally content to accept the methodology used. Similarly, submissions which expressed significant cause for concern over the effects of iLUC provided numerous suggestions for legislation, while those that found there was insignificant proof for legislation tended to advocate for the maintenance of the status quo. The core themes identified through the analysis are as follows:

#### **Study Models: Strengths & Weaknesses**

#### Anti-Legislation

The core of most submissions centred around the acceptance or rejection of the studies previously conducted in an attempt to estimate the effects of iLUC resulting from the EU's promotion of biofuels. Given that it is not possible to quantitatively assess the exact extent of iLUC caused by the promotion of biofuel, studies rely on models which aim to estimate the potential GHG emissions caused by different forms of biofuel at a global level.

Submissions which did not advocate for any further legislative measures due to iLUC concerns highlighted a number of assumptions within the models used. Brazil stated that the studies fail to account for regional differences and efforts made by different states in order to limit land use change. Failing to account for existent public policy mechanisms that address land management and deforestation, Brazil argues that the studies are inaccurate in the use of a 'single formula... applied as a universal factor' (Brazil, P.3). Brazil states that biofuels cannot be separated from other agricultural production in the calculation of iLUC, an argument reinforced by the European Biofuels Board (EBB) who point out that "land use demand is driven by a multiplicity of factors'. The EBB also believes the databases used were incomplete and outdated in some cases - a point also highlighted by COPA-COGECA who furthered argued that there was a lack of transparency in some elements of the studies which should have been available to external experts. The models were also criticised for not taking into consideration potential technological developments in the coming years in biofuel production, for making unusual yield assumption on crops (EBB & COPA-COGECA) and for failing to include the potential effects of market dynamics (COPA-COGECA). EBB argues that the use of econometric models assumes no change between the present and 2020 and as such any future effects of sustainability criteria or relevant national public policies are not accounted for. They also believe that any assessment of biofuels and iLUC must consider the LUC effects of fossil fuels in a comparative sense. Given that the rationale for biofuel promotion is the reduction in emissions when compared with fossil fuels, it is argued that failing to

apply the same form of assessment to fossil fuels ensures that any conclusion would be 'biased and partial' (EBB). COPA-COGECA finds that there are significant discrepancies in the analyses produced and that they should have been reviewed for plausibility. The Malaysian Palm Oil Board also observes that, while commonalities exist, there is a significant divergence in results between the models. The EBB argues that the studies do not provide '*a definitive, clear-cut and undisputable answer to questions surrounding the iLUC concept*' (EBB).

As a result of these shortcomings, COPA-COGECA finds that the iLUC hypothesis is neither proven nor refuted by the analyses. These actors assert that any policy based on the results of these studies would constitute legislation based on incomplete, insufficient, and incorrect information. *'The analytical models cannot serve as a basis for deriving concrete recommendations for action or regulation'* (COPA-COGECA); the results are an *'insufficient basis for determining the existence and magnitude of biofuels ILUC'* (EBB). Brazil believes that any such action would be wrong and would not guarantee any reduction in iLUC or its effects.

#### **Pro-Legislation**

Conversely, pro-legislation Interest Groups are far more accepting of the efforts made in estimating the iLUC effect. Accepting the complexity involved in such a modelling exercise, there is a consensus that while the results may vary, there is consistency in the direction of the results that merits significant concern regarding the iLUC effects resulting from EU policies relating to the use of biofuel in transport. Exxon Mobil finds that the studies present 'an overall agreement' that current policies may result in iLUC that would lead to increased GHG emissions – the inverse of their intention. Exxon also find the evidence to be 'numerically significant'. The Scottish Environmental Protection Agency (SEPA) acknowledges that the result variance amongst the studies is due to the difficulty and complexity in accurately modelling LUC, but that does not render the effects are insignificant or should be disregarded- 'Analytical work carried out by the Commission and others provides compelling evidence' that EU policy could lead to significant impacts on land use with serious human and environmental consequences (SEPA). Unilever too finds the results of the studies to be significant. Moreover, it believes that the findings would have greater cause for concern had analyses included the use of first generation

biofuels as set out in the national renewable energy plans - a figure significantly higher than used in the studies. Unilever contends that the inclusion of these significantly higher figures would have a greater impact on sustainability with regard to GHG balance and an impact on the market pricing for vegetable oils.

#### **Categorising Biofuels**

#### Anti-legislation

The EC consultation invited opinions on the targeting of specific biofuel sources based on their feedstock, geographical location and land management. Again, this theme proved particularly divisive amongst the consultation participants.

Firstly, it is argued that the EU cannot discriminate certain fuels as it would simply be based on uncertain evidence (Brazil). EBB believes that there is an absence of sound scientific evidence for the establishment of criteria for discrimination. COPA-COGECA argue that no conclusion on categories can be drawn due to the complexities inherent in biofuel production. Land use type, geographic location, land management and laws in certain regions all lead to a complex scenario whereby a discrimination at EU level cannot be made. Brazil believes that the targeting of specific biofuel sources is not the answer and that regional consideration of land origin and policy presence is important. Furthermore, it argues that adding an iLUC factor to certain biofuels would disproportionately affect small and medium farmers in developing countries as any required calculation, reporting or production method change could result in a significant burden for them. Brazil advocated that such discrimination would need to be examined under multilateral trade laws. This concern was echoed by the EBB who argued that any distinctions made based on feedstock type or geographical origin 'would be totally arbitrary under the present circumstances and would therefore raise issues of legal certainty and WTO compatibility' (EBB).

#### **Pro-Legislation**

Conversely, others found that the studies provide justification for the prioritisation of certain fuel sources ahead of others. Exxon Mobil highlighted that certain feedstocks (sugar cane and sugar beet ethanol; waste, tallow and related feeds) provide a GHG emission reduction of over 50%. Exxon contends that the calculations 24

successfully provided for geographic detail in order to assess carbon stock change with regard to particular biofuels. Unilever too advised that the EU could define different factors for various categories ("Waste derived biofuels; Sugarcane ethanol and sugar beet ethanol; Cereals based 1st generation bio-ethanol; First generation biodiesel like rapeseed and soy-based biodiesel.". Others however, are more cautious in their support for specific categories of biofuel. Both Conservation International (CI) and SEPA have called for a full life-cycle analysis in order to account for a variety of factors which may have been overlooked. SEPA believes it should account for specific forms of land conversion such as the drainage of peatland for agricultural cultivation as such land type has a significantly higher carbon stock. It also highlights the fact that the intensification of production that may coincide with specific biofuel supports may lead to greater use of nitrogen fertilisers, another source GHG emissions. CI believes any such lifecycle analysis must be regionally situated, accounting for feedstock type, land management and processing systems in use and should be conducted at a sub-national level for larger countries.

#### **Second Generation Biofuels**

With regard to the promotion of 2<sup>nd</sup> generation biofuels, most submissions had a more neutral stance or were positive about policies encouraging their development into the future. While the Malaysian Palm Oil Board believes it is worthwhile to support advanced biofuels in order to spur innovation, it does not agree that it can account for 30% (double-weighted to encourage uptake - 15% in real terms) by 2020, arguing that many will only become commercially viable around that time. SEPA also believes that, based on the current cost of cellulosic ethanol and biodiesel from microalgae, commercial viability may be some way off and that the EC may be overestimating their contribution for the near future.

COPA-COGECA argues that iLUC cannot be ruled out with respect to second generation biofuels. Using residues as an example, it is argued that iLUC may occur when residues previously destined for processing into molasses are now redirected to the biofuels market. According to COPA-COGECA, residues and waste products are often used as raw materials for processing into other products. It is interesting to note that the EBB, who mostly echo the concerns of COPA-COGECA, claim that residues '*by definition have no land use impact*'. Again, interestingly, SEPA's precautionary

approach leading it to occupy a similar argument to those who normally hold opposing views. It also argues that some non-crop based feedstocks may have indirect effects and therefore also require a full lifecycle analysis – just as it argues for all other sources of biofuel (SEPA).

Second generation biofuels represent a rare point of convergence for those that support and oppose legislation to address iLUC concerns. Most occupy a neutral stance or doubt that they will make a significant contribution any time soon. Perhaps they offend neither party because they don't pose an immediate threat to industry and purport to have no LUC effects.

#### **Biofuels & iLUC within global agriculture | The nature of iLUC**

Some submissions went beyond criticising the methodology and assumption of previous studies and the question of categorising biofuels based on individual feedstock assessment and went on to question aspects of the iLUC concept. Brazil argues that there is a need for greater study on how carbon stocks evolve through land use change, and that, in the absence of a more detailed understanding, it is not possible to correlate iLUC with GHG emissions in many parts of the world. This sentiment is echoed by COPA-COGECA who cite Brazil as an example, where an increase in biofuel production has occurred simultaneously with decreasing rates of deforestation. Brazil also argues that, provided the lack of scientific consensus, any unilaterally applied measure that would prevent the development of an international market for biofuels would de facto constitute a 'direct subsidy to fossil fuel consumption that the EC policies intend to reduce'. It also stresses that iLUC is not solely applicable to biofuels and thus it is not possible to truly isolate its effects for study. The EBB also believes that such studies ensure that biofuel and fossil fuel are compared using different benchmarks given the absences of fossil fuels from the iLUC studies. Without such a comparison, these analyses cannot be considered a 'serious scientific approach' (EBB).

#### **Submission Recommendations**

#### Anti-legislation

Submissions that oppose any from of action on behalf of the EU present a number of recommendations for other avenues for action. According to Brazil, the best method for addressing undesirable land use change is to implement an international approach to safeguarding specific areas within the UNFCCC. COPA-COGECA too argues that LUC problems would be best addressed by regulations, a practice it claims is already in place within the EU and could also be introduced in affected regions of third countries. A similar path is suggested by the EBB, who believe the EU should promote international agreements that protect carbon-rich habitats. The focus on developing nations is a common theme amongst those opposing legislation. The Malaysian Palm Oil Board calls on the EU to work with third countries in order to collect greater land use data via satellite. While COPA-COGECA recommends that further analysis and evaluation of third countries (with the determination of land use change at regional level expected to provide 'generally reliable figures' is necessary in light of the uncertainty surrounding iLUC. Brazil believes the EU should acknowledge the need for financial support, technology and capacity building in order to improve their ability to monitor and manage land use. Furthermore, it argues that for decades developed countries have negatively affected developing countries through agricultural policies and trade practices, with the limiting of an international market for biofuels representing another lost opportunity for developing nations.

These groups all advocate for greater, more detailed studies in order to ascertain a true scientific consensus on iLUC threats (Brazil, EBB, COPA-COGECA, MPOB). COPA-COGEGA also calls for all model calculations to be empirically reviewed. The Malaysian Palm Oil Board believes that the situation should be monitored for a further 5 years and then reviewed. In the meantime, it believes that support for second generation biofuels from residues is appropriate.

All submissions note that understanding LUC and iLUC is of significant importance, but that implementing policy based on recent studies is ill-advised and detrimental to the industry. As aforementioned, the EBB calls for the fair assessment of fossil fuel induced iLUC in comparison with biofuels. They argue that such studies must account for the negative externalities arising from fossil fuel extraction, transport and refining. EBB argues that the EC should bear in mind that until 2050, bioenergy will be the main, if not only, driver of decarbonisation in the transport sector. It calls for positive incentives in place of any penalties.

#### **Pro-**legislation

Exxon Mobil argues that the EC ought to develop iLUC factors for different categories of biofuels, accounting for type, method of manufacture and the country of origin. Unilever concurs with this suggestion as it would encourage the production of certain biofuels and discourage the production of others. It outlines suggestions for the attributing of an iLUC factor (gram CO<sup>2</sup>/Mega Joule) for each form of biofuel stock. SEPA advocates for a similar form of iLUC factor to be applied to all biofuels that use land for production. It also calls for a number of other measures such as the establishment of an international agreement to protect carbon rich habitats such as forests and peat lands, including bio-diverse habitats; Incentivize marginal, degraded and abandoned land; and to encourage development of biofuels which do not compete for land such as wastes, residues and by-products. Conservation International calls for the provision of incentives for practices which reduce the risk of iLUC in feedstock production.

A number of submissions that advocate for an iLUC legislation outline concerns beyond the obvious and most debated element of GHG emissions. SEPA believes that action is required in order to mitigate effects of iLUC on '*biodiversity, water and soil quality, water use, waste management and local communities.* CI too, expressed concerns over the '*degradation of ecosystem services and biodiversity habitat, decreased food security, and destabilized local land rights*'. CI believe that it may be a viable option to identify cultivation areas where there are minimum risks of displacement and minimal risks to communities and ecosystems. It also believes that in some cases there is potential for yield increases and integration into existing agricultural landscapes without generating negative effects.

Both SEPA and CI stress the need for immediate action. While the effects are difficult to estimate and effectively model, '*a policy which ignored them would be incomplete, if not irresponsible*' (Conservation International). SEPA believes that interim measures should be introduced wherever there is uncertainty about an appropriate longer term approach while CI recommends a periodic review of the

models in light of the near certainty that the data and models themselves will improve in the near future.

#### **Policy Outcome: The EC Proposal and Final Legislation**

In order to effectively assess which groups were most successful in influencing the EU's stance during the legislative cycle, this section details the policy outcomes at two stages, the policy proposal issued by the EC following the conclusion of the public consultation and the final amendment as adopted by the European Parliament and European Council.

# Part 1: European Commission Proposal for RED and FQD Amendment (17.10.2012)

- To increase the minimum greenhouse gas saving threshold for new installations to 60% in order to improve the efficiency of biofuel production processes as well as discouraging further investments in installations with low greenhouse gas performance. (New installations must be 60% more efficient than traditional fuel)
- To include indirect land use change (ILUC) factors in the reporting by fuel suppliers and Member States of greenhouse gas savings of biofuels and bioliquids; (Fuel suppliers must report ILUC)
- To limit the amount of food crop-based biofuels and bioliquids that can be counted towards the EU's 10% target for renewable energy in the transport sector by 2020, to the current consumption level, 5% up to 2020, while keeping the overall renewable energy and carbon intensity reduction targets; (Limit contribution to 5%, keeping overall target to stimulate alternatives)
- To provide market incentives for biofuels with no or low indirect land use change emissions, and in particular the 2nd and 3rd generation biofuels

produced from feedstock that do not create an additional demand for land, including algae, straw, and various types of waste, as they will contribute more towards the 10% renewable energy in transport target of the Renewable Energy Directive. (Market incentives for advanced biofuels)

The EC proposal constitutes a multi-faceted approach to the complex policy problem. Increasing the efficiency ratings for new installation to 60% is a forward looking approach, ensuring that future investments/installations are cleaner than before. As this is not retroactively applied, previous investments and older installations are protected. It is therefore clear that industrial interests were considered in this measure. However, by demanding the reporting of an iLUC factor by suppliers, it has gone against the wishes of the biofuel industry and producing third countries. This approach was universally advocated for by those who were pro-legislation on iLUC. Perhaps the most significant proposal is the limiting of the contribution of food crop based biofuels at 5% to the 10% target for renewable energy in transport by 2020. This 5% limit, intended to represent the 'current consumption level', is a clear indicator that the EC feels the concerns surrounding iLUC are significant to halt any further expansion of food crop based fuels whatsoever. However, limiting it at the current rate of consumption also highlights that it does not want to penalise or hurt the supply side for its production commitments thus far. Calling for the market incentives for advanced biofuels is also forward looking and was not a particular flashpoint for debate between those groups pro and anti legislation. It is clear that the EC recognised this as an agreeable area for promotion, promoting innovation without offending either side of the iLUC debate.

iLUC has stimulated a debate where actors do not find themselves in a middle ground. Rather, there are occasional suggestions that find some common ground between both sides. Calls for continued monitoring and future study of the issue, as well as the incentivising of second generation biofuels in order to spur innovation are arguments that appear find little objection. It would seem that the EC has endeavoured to shift policy in the direction of a precautionary approach while searching for some middle ground. With its support for advanced fuels and the gradual lowering of the contribution for feedstock based fuels, it appears that the EC has endeavoured to find a middle ground between the two camps - neither adopting a fully precautionary approach to environmental protection or kowtowing to industrial calls for stability and continued support in light of scientific 'uncertainty'.

Acknowledging the level of complexity and uncertainty surrounding the debate, one could conclude that there is no definitive appropriate response for the EU to take. By fully applying the precautionary principle to biofuel policy, EU legislation may have a significant impact on the industry, potentially upsetting fuel markets and hindering innovation and investment in cleaner sources of fuel. Alternatively, failing to act until all (or the majority of Interest Groups) find scientific consensus on the damaging effects of iLUC caused by biofuel promotion runs the risk of not only increasing GHG emissions – the antithesis of the aim for their promotion – but also damaging biodiversity, ecosystems, water quality and certain communities affected by the expansion of agricultural production. In the face of such a wicked dilemma, it may be argued that the EC followed the recommendation put forth by SEPA, enacting interim measures that limit the expansion of first generation biofuels while subtly promoting the development of more advanced, sustainable forms.

The EC had previously claimed that '*if action is required, iLUC should be addressed under a precautionary approach*' (COM 2010, 811 final). This approach was echoed in a later EC staff working document which underlined why they believed it was unacceptable to take the policy approach of avoiding legislation until further studies and monitoring of iLUC provide more convincing evidence:

'There are reasonable grounds to believe that iLUC emissions could partly undermine the GHG savings offered by using biofuels. In application of the precautionary principle, option A) is therefore discarded'

#### (SWD 2012, 344 final)

It is arguable that this proposal is as precautionary an approach as possible without causing more significant disruptions to the biofuel industry. In essence, it represents a phased retraction of the previous policy which indiscriminately promoted biofuels. The proposal also reduced the incentives for expansion in the immediate and aiming to remove incentives entirely for controversial sources in the near future. This phased retraction is evidenced by the EC stating: *'in the period after 2020 biofuels should only receive financial support if they lead to substantial greenhouse gas savings and are not produced from crops used for food and feed'* (Press release, 2012).

#### **Part 2: Final Adopted Amendment**

It took the European Parliament and European Council a further two and a half years, following the EC proposal, to come to an agreement on the shape and content of an acceptable amendment to the RED and FQD based on iLUC concerns. The final amendment underwent two readings at the parliament and included the following revisions:

#### 7% cap for the contribution of first generation biofuels

- (first revised to 6% and later to 7% during negotiations between the European Parliament and European Council)
- member states may impose lower national limits on these biofuels should they wish

#### 0.5% indicative target for advanced biofuel contribution

- The contribution of advanced biofuels would be double weighted in the assessment of a countries renewable energy target in transport

Much like the Interest Group submissions, member state views diverge significantly and ensured that the debate, which had already lasted two years at the EC, would continue for a further two and a half years before the EP and European Council could come to an agreement on an acceptable amendment.

The final amendment adopted made significant changes to that which was proposed by the EC. The prominent change is the increase of the limit on biofuel contribution to renewable energy from 5% to 7%. This increase clearly represents a boon to the sectional groups advocating on behalf of the biofuel industry as well as third country producers wishing to increase production beyond current rates. While Dür/de Bièvre (2007) suggested that sectional groups are more influential than cause groups due to the resources (financial, information, electoral support) they can provide decision makers. However, this influence did not appear to manifest itself strongly in the EC proposal. The subsequent revisions however, allude to some influence at the EP and European Council. There are two reasons why this influence 32

may have been exerted at the EP/European Council negotiation stage rather than during the formulation of the EC proposal:

- 1. Cause groups tend to defend more diffuse interests, such as environmental protection. These interests seem to be well represented by the results arising from the studies conducted prior to the EC proposal. While the extent and detrimental impact of iLUC is extremely difficult to effectively measure or model accurately, the overarching direction of results appeared to drive the EC on the basis of the precautionary principle. At the political level however, the diffuse environmental concerns are less concrete than those of sectional groups, whose profits and economic viability may be directly affected by any change in the investment environment or market instability caused by a regulatory shift.
- 2. It is possible that political representatives at the EP and state level within the European Council are more open to influence by Interest Groups than the more technocratic executive branch of the European Commission. As stated by Moravcsik, 'states in the Council function as a transmission belt for Interest Group preferences dominant at the domestic level' (1993, 2008). This would serve to explain why revisions to the proposed amendment favoured the biofuel industry and sectional groups and would also support Dür & de Bièvre's (2007) aforementioned argument that sectional groups are more influential than cause groups.

While not conclusive, these may serve to explain or at least provide context for the significant upward revision of the limit initially proposed by the EC.

#### **Conclusion**

This chapter has provided a detailed analysis of the themes that arose through the analysis of submissions to the public consultation on legislative measures seeking to account for the potential effects of iLUC. It is clear from this analysis that the submissions were from two distinct categories, those who found that previous research provided sufficient bases for the introduction of legislation in order to address concerns surrounding biofuels and iLUC, and those who did not. The former category included responses from an EU public authority, companies outside the biofuel industry and environmental NGOs. The latter included responses from biofuel producing third countries and biofuel industry groups.

The policy outcome is clearly based on submissions received from both sides of the debate. However, the very fact that legislation found eventual agreement and was adopted identifies one clear winner. Anti-legislation Interest Groups successfully sowed doubt regarding the scientific basis for legislation. They also effected an upwards revision of the biofuel limit imposed at parliamentary and council levels. However, the legislation introduced represents the beginning of a phased retraction of the policies which supported the biofuel industry. This is clear success given the lack of complete scientific evidence for policy making and marks a shift in the status quo. As highlighted by environmental NGO, Transport & Environment:

'Maybe this is not the end of bad biofuels now. But this surely is the beginning of the end for pouring food in our tanks. The message is clear: political support for land-based biofuels in Europe post-2020 is over.'

(Caloprisco, 2015)

Thus, while neither side of the debate will consider the legislation an immediate victory, the EU has effectively found sufficient consensus within its legislative apparatus in order to enact change, while signalling clearly its intentions for the future direction of biofuel policies. In the midst of an extremely complicated policy debate, such an achievement is commendable in that it signals its own ambitions for environmentally friendly policies while also striving to provide *'a stable and predictable investment climate'* (COM 2010, 811 final) for the biofuel sector within the Renewable Energy Directive.

## **Chapter Five: Conclusions**

This research set out to distil a debate of significant complexity into a format that enabled the tracing of Interest Group preferences through the EU policy-cycle. Through the analysis of public consultation submissions, it effectively identified the preferences of a variety of Interest Groups seeking to influence the frame of the debate within the EU policy making apparatus. The absence of a scientific consensus regarding the true impact of EU biofuel policy on iLUC left an opening for the external expertise of Interest Groups to affect the direction of the policy debate within the EU.

This analysis revealed two distinct camps that were essentially divided on whether or not the previous research and statistical models represented a sufficient basis for the amendment of legislation already in place. Through the comparison of preferences set out in the consultation submissions with the policy outcomes, this research clearly identified the winners and the losers of the policy cycle. In the short term, the antiamendment groups will be disappointed that they failed to persuade a continuation of the status quo, but they did succeed in achieving a cap on biofuels that is both higher than their current production level and higher than the initial 5% cap as proposed by the European Commission.

However, the clear winners of the policy cycle are those advocating for an amendment of the EU biofuels promotion in light of iLUC concerns. The limit of 7% may not represent a significant shift in the short-term, but it signals the retraction of a flawed policy and reaffirms the environmental commitments of the European Union.

"The question of indirect land use change related to biofuel feedstock production is one of the most complex and controversial to arise from recent efforts to promote the use of biofuel use in the European Union and indeed, globally" (Conservation International)

Provided the complexity of the overall debate and the wide variety of vested interests seeking to influence the policy making process on both sides, the EU successfully managed to adopt a policy that reflected the detail of the submissions to the public consultations and the inevitability of compromise within the democratic process.

The role of Interest Groups in the democratic process is ever increasing and it has been legitimised at EU level with the creation of the transparency register. The relationships between Interest Groups and public decision makers is an extremely important focal point for analysing the policy process at the EU. This study was a microcosmic assessment of the complexities of their relationship with the EU institutions, but presents the basis for a larger scale study in the future.

#### **Suggestions for Further Research**

The research conducted for this thesis was small in scale. This research could be expanded to include a greater number of Interest Groups across a larger number of policy debates. The focus on Interest Group influence within the sphere of EU environmental policy would shed greater light on the position of the EU as a norm setter in global environmental affairs.

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## Annex (1)

# Questions Posed in Public Consultation (insert/annex, 457 words)

The public consultation invited submissions to respond to a set of questions related to the previous studies and evidence of ILUC, as well as recommendations for future action by the EU on this area of policy. The 4 questions posed were:

- 1) Do you consider that the analytical work referred to above, and/or other analytical work in this field, provides a good basis for determining how significant indirect land use change resulting from the production of biofuels is?
- 2) On the basis of the available evidence, do you think that EU action is needed to address indirect land use change?
- 3) If action is to be taken, and if it is to have the effect of encouraging greater use of some categories of biofuel and/or less use of other categories of biofuel than would otherwise be the case, it would be necessary to identify these categories of biofuel on the basis of the analytical work. As such, do you think it is possible to draw sufficiently reliable conclusions on whether indirect land use change impacts of biofuels vary according to:

• feedstock type? • geographical location? • land management? If so, please say which, and indicate the evidence used to reach your conclusion.

4) Based on your responses to the above questions, what course of action do you think appropriate?

A. Take no action for the time being, while monitoring impacts including trends in certain key parameters and, if appropriate, proposing corrective action at a later date Please say how the monitoring should be done and what these parameters should be.

B. Take action by encouraging greater use of some categories of biofuel

Please say which biofuels, why and what sort of encouragement should be given.

C. Take action by discouraging the use of some categories of biofuel

Please say which biofuels and why, as well as what sort of measure should be taken, for example: - increasing the minimum greenhouse gas saving threshold for biofuels - imposing additional sustainability requirements on certain categories of biofuel (these could, for example, require the use of practices that can help mitigate indirect land use change impacts) - attributing a quantity of greenhouse gas emissions from indirect land use change to all biofuels that use land2 If the latter, please say how this should be calculated, and demonstrated – for example: - a factor based on the estimated (modelled) land use change from a marginal extra quantity of crop production; - a factor based on the average land use change from crops over some recent period; - a factor based on any other consideration. Please also say - whether it should be reviewed and if so how often - whether it should be implemented with any accompanying measures

D. Take some other form of action. Please say what action and why.