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Deregulation, Subsidiarity  
and Sustainability:  
New Challenges for  
EU Environmental Policy

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RSC No. 96/60

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**ROBERT SCHUMAN CENTRE**

**Deregulation, Subsidiarity and Sustainability:  
New Challenges for EU Environmental Policy**

**UTE COLLIER**

**EUI Working Paper RSC No. 96/60**

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'The European Union is making progress in reducing certain pressures on the environment, though this is not enough to improve the general quality of the environment and even less to progress towards sustainability. Without accelerated policies, pressures on the environment will continue to exceed human health standards and the often limited carrying capacity of the environment.'

European Environment Agency (1995)  
*Environment in the European Union 1995*



## Abstract

Since the early 1990s, three concepts have become increasingly influential in European Union (EU) environmental policy; subsidiarity, sustainability and deregulation. While they could all in principle contribute to a strengthening of environmental protection in the EU, their influence to date has mainly been negative, as the example of the EU's response to the climate change issue demonstrates. The subsidiarity principle is being exploited in the interest of national sovereignty, the sustainability concept is too vague to be useful in policy-making and the change to a more market-based approach for environmental instruments has proved elusive. In general, EU environmental policy has lost momentum in recent years and there has been little progress with the integration of environmental concerns into other policy areas, beyond marginal adjustments.

## Table of contents

	Page
1. Introduction	1
2. The State of Europe's Environment	2
3. The Evolution of the EU's Environmental Policy	4
4. Shortcomings and Limits	7
5. The Influence of the Subsidiarity Debate	10
6. Towards Sustainability	12
7. Deregulation and the Market Doctrine	14
8. Climate Change	17
9. The Current Agenda	19
10. Conclusions	23
References	25



## 1. Introduction

Environmental policy is generally considered to be one of the EU's more successful policies, at least in as far as the adoption of legislative texts is concerned (Haigh, 1992, Krämer, 1995). Around 200 directives and regulations<sup>1</sup> covering problems ranging from drinking water standards to the protection of rare bird species are in force. Although environmental protection was not included as an objective in the Treaty of Rome, it has been a distinct policy area for over 20 years and was given a legal basis in the Single European Act. Since the Treaty on European Union, 'sustainable growth respecting the environment' has become one of the Union's main tasks.

However, the EU environmental policy process has not been without delays and obstacles. Many proposals for directives have never been adopted by the Council or agreement was only reached after year's of negotiation and on a lowest common denominator basis. Not all directives have been implemented by the member states and enforcement has been difficult. Most activity has been in the area of water and air pollution, while other environmental issues such as nature conservation have seen little EU involvement. Furthermore, during the last few years, a number of new challenges have manifested themselves, which together may result in a weakening of environmental protection in the EU.

Firstly, policy making has become increasingly influenced by the application of the subsidiarity principle. Subsidiarity, although already implicit in Article 130r of the SEA, only became a real issue with the signature of the Maastricht Treaty. While in principle a sensible idea in environmental terms, it can become an excuse for not taking action and raises issues of enforcement in the case of framework directives, which are becoming increasingly popular. Subsidiarity is particularly problematic in the environmental area as a number of member states are unlikely to take environmental action in the absence of EU legislation (Collier and Golub, 1996).

Secondly, the adoption of the sustainability principle brings as many problems to environmental policy as it offers opportunities. There are many different interpretations of the concept, which is exemplified by the use of the term sustainable 'growth' in the Maastricht Treaty, while the 5th Environmental Action Programme (EAP) talks about sustainable 'development'. The integration of environmental concerns into other policy areas, which is a fundamental facet of sustainable development, challenges the status quo of economic policy making and has not progressed very far, as the Commission itself has admitted (European Commission, 1995a).

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<sup>1</sup> Directives and regulations are the two binding legislative instruments that the EU has at its disposal. Regulations are binding in their entirety, whereas directives allow member states some flexibility on how to transpose them into national law.

Finally, the general climate of liberalisation and deregulation has influenced the environmental policy area. Some industrial lobby groups have long argued that tight environmental regulation is a hindrance to international competitiveness (see e.g. UNICE, 1995). In 1995, the Commission set up an expert group whose report comes to the same conclusion (European Commission, 1995b) although, to date, no great deregulatory drive in EU environmental policy has ensued. Nevertheless, pressure for a change in regulatory focus towards economic instruments and negotiated agreements will continue, despite many potential problems.

The aim of this paper is to analyse the current state of EU environmental policy and to discuss its future prospects. It commences with a brief examination of the type and scale of environmental problems facing the EU, as identified in the recent Dobris<sup>2</sup> Assessment. This is followed by a summary of the evolution of EU environmental policy since 1973, detailing the main areas of action and some of the shortcomings. The main part of the paper concentrates on the changed policy context which has affected EU environmental policy over recent years, focusing on changes which can be grouped loosely under the themes of subsidiarity, sustainability and deregulation. The example of the climate change issue will be used to illustrate the significance of these developments. Finally, conclusions will be drawn about the likely future path of EU environmental policy.

## 2. The State of Europe's Environment

Environmental change occurs as a result of both natural and human processes. However, over the past century, and especially during the past few decades, human activities have begun altering natural processes at an unprecedented scale. It has become increasingly obvious that environmental damage is not confined to the destruction of flora and fauna but also poses threats to human health and quality of life. Furthermore, certain large-scale problems such as climate change will interfere with economic activities. Environmental problems range from those with global implications to those affecting only specific local areas.

Information on the state of the environment is an important prerequisite for effective policy making, as the 5th Environmental Action Programme (EAP) stresses (European Commission, 1992a). In the EU, data on environmental problems has been somewhat patchy as well as incoherent, as a result of different types of monitoring mechanisms. The recent establishment of the European Environment Agency (EEA), with the specific remit of gathering and

<sup>2</sup> Named after Dobris Castle, the location of a conference of European Environment ministers in 1993, which called on the European Environment Agency to assemble a state of the environment report for the whole of Europe.



disseminating environmental data, is expected to significantly improve the situation. In 1995, the EEA published the so-called Dobbris assessment, covering not only the EU but the whole European continent (EEA, 1995). The Dobbris assessment highlights that despite over 20 years of EU environmental policy, there are still some serious environmental problems.

Air pollution continues to be a major problem, constituting both a health hazard and causing environmental damage through acidification. Emissions from large stationary sources are coming increasingly under control, with EU SO<sub>2</sub> emissions having decreased by about 35% between 1985 and 1994. However, although acid deposition levels have fallen considerably, critical loads are still being exceeded in many areas. A main problem is the growth in NO<sub>x</sub> emissions from mobile sources. As a result, many EU cities exceed WHO air quality guidelines, with most larger cities recording a high incidence of respiratory diseases.

Water pollution is a problem affecting inland waters as well as the oceans. Improved waste water treatment over most of the EU has resulted in marked decreases of phosphorus concentrations. However, especially in Southern Europe, sewage treatment is still inadequate and major investments are needed to remedy the situation. Furthermore, agricultural activities are polluting groundwater resources. According to the Dobbris assessment, the soil water in over three-quarters of agricultural land exceeds EU pesticide standards and nitrate concentration guide levels, the latter being caused by the large-scale use of fertilizers (EEA, 1995). This also is a contributing factor to eutrophication problems in the Mediterranean. Furthermore, overexploitation of fish stocks is occurring in all European seas.

Agriculture is also a major culprit of the loss of biodiversity, a growing area of concern in recent years. In the EU, 10% of plant and 28% of bird species are estimated to be threatened (European Commission, 1995). Wetland drainage has been a major problem resulting in the decimation of bird habitats. Nature protection efforts have intensified in many countries over the last decades, with the establishment of thousands of protected area. However, many of these are small and are under heavy pressure, due to both external threats (such as agricultural intensification, infrastructure development and air pollution) and lack of management resources (EEA, 1995).

The potential threat of climate change has become one of the most salient environmental issues during the 1990s. Should climate change become a reality, flooding and temperature increases would cause major disruptions to human settlements and agricultural patterns. There are a lot of uncertainties regarding feedback mechanisms and natural climate variability but there is now a consensus amongst the majority of the world's climate scientists, who collaborate under the auspices of the Inter-Governmental Panel on Climate Change (IPCC), that 'there is a perceptible human influence on the global

climate' (IPCC, 1996). The latest forecasts predict global temperature increases of 1 to 3.5°C, a higher rate than any experienced over the last 10,000 years. The effects would vary considerably across the EU and Southern European countries are expected to be major losers, increasingly facing shortages. The EU contributes around 15% of global CO<sub>2</sub> emissions and efforts to curb emission growth have so far been relatively ineffective, as section 8 will discuss in more detail. According to the latest projections, emissions in 2000 are expected to be up to 5% above the 1990 level (European Commission, 1996a), which does not bode well for the emission reductions that are required for climate change abatement.

As the above paragraphs have shown, the EU is affected by a multitude of environmental problems. However, the scale of the problems does not necessarily provide a rationale for EU level environmental policy, as it can be argued that many problems can be solved at the member state level or even at local level, while others clearly need global solutions. EU action, at least in certain areas, can be justified on the basis of a number of reasons. Firstly, and most obviously, there is the transboundary nature of many environmental issues. This certainly applies to air pollution (with many pollutants travelling hundreds of km), to some extent to water pollution, as well as to the protection of certain animal species (especially migratory birds).

Secondly, EU environmental action can also be justified in terms of the need to harmonise various environmental standards applying to traded goods so as to eliminate barriers to trade and to allow the completion of the internal market. Liberatore (1991) also mentions political factors, including the need for the EU to take account of public concerns about the environment, so as not to lose its legitimacy. Furthermore, it can be argued that as a number of member states would be unlikely to take action on their own account, EU level action is necessary to improve environmental protection for the EU as a whole. In reality, as Sbragia (1996) has argued, EU environmental action has sometimes been pursued simply because certain environmentally pro-active member states have pushed for legislation. In general, for around 20 years the expansion of the EU's competences in the environmental area has proceeded relatively unchallenged, as the next two sections will show.

### **3. The Evolution of the EU's Environmental Policy**

In the immediate post-war period, there was little concern about environmental degradation and it is hence not surprising that the Treaty of Rome made no reference to environmental issues. Subsequently, during the 1960s, awareness began to increase about the environmental damage caused by fast post-war economic growth and Krämer (1995) lists the 1967 directive on the classification, packaging and labelling of dangerous substances as the first EU



environmental protection measure. Environmental concerns were put on the political agenda in 1972 with the Stockholm Conference on the Human Environment, the first major international conference concerning itself with environmental problems, organised by the United Nations. At the time at the EU level, there was increasing consensus on the need for concerted action.

At the Paris summit in October of the same year, the Heads of the then nine member states declared 'that economic expansion should not be an end itself but result in an improvement in the quality of life' (as quoted in Liberatore, 1991), for which a healthy environment was considered an important. They called on the Community institutions to draw up a policy programme for the environment. Subsequently, the first Environmental Action Programme (EAP) was published in 1973, defining the basic principles of EU environmental policy. EAPs have been an important feature of EU environmental policy, outlining the basic framework of action for periods of up to five years. They have been implemented mainly through directives setting regulatory standards but also, more recently, through various financial mechanisms. The first (1973-76) and second EAP (1977-81) focused on specific environmental policy measures that needed to be taken, with the second EAP emphasizing the polluter-pays principle.

The third EAP (1982-86) was the first to be concerned with the need of integrating environmental consideration into other policy areas, as it became increasingly clear that environmental problems could not be solved by environmental directives alone. In fact, the damaging effects of other EU policies, especially the Common Agricultural Policy, was becoming ever more apparent. The fourth EAP (1987-92) developed the integration theme further and emphasised specifically the linkages between environmental protection and economic progress, stating that 'the protection of the environment can help to improve economic growth and facilitate job creation<sup>3</sup>. The fifth EAP was published in 1993 to cover the period to the year 2000 and is supposed to mark a new approach to environmental protection. Under the headings of sustainability and shared responsibility, the aim of the programme is to achieve a better integration of environmental concerns into other policy areas, and to have a greater involvement of all economic and social partners (European Commission, 1992a).

Until 1987, action in the environmental area had to be based on various provisions of the Treaty of Rome, mostly articles 100a and 235. The Single European Act (SEA) finally provided EU environmental policy with its own legal basis through article 130r. It set out its objectives as follows:

- to preserve, protect and improve the quality of the environment;
- to contribute towards protecting human health;

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<sup>3</sup> For more detail on the EAPs, see Hildebrand, 1993.

- to ensure a prudent and rational utilisation of natural resources.

The SEA designated prevention and the polluter pays principle as the basis of EU environmental policy. Importantly, it also allowed member states to introduce more stringent measures than those provided for by EU directives. Haigh (1992) argues that the article was sufficiently vague to enable the Commission to propose legislation in areas where it had hitherto hesitated to venture, such as the directives on habitats and freedom of access to environmental information. Haigh has also found that the institutional changes introduced have in some areas speeded up the adoption of legislation, as well as enhanced the role of the European Parliament.

Indeed, the SEA appeared to provide a real spur to the development of EU environmental legislation. Krämer (1995) reports that between 1989 and 1991, the EU enacted more environmental legislation than during the previous 20 years combined. The early 1990s can be considered the 'heyday' of EU environmental policy, with environmental issues high on the political agenda at both EU level, in many member states, as well as internationally (Collier, 1996a). At the time, it seemed as if the 1992 Rio summit (see section 6) might mark the beginning of a new 'ecological era' (Ciuffreda, 1996).

The environment was discussed during the preparations of the 1992 Maastricht summit, in particular with respect to the sustainable development concept, which was gaining increasing importance. In the end, the 1992 Maastricht Treaty on European Union made some small but important amendments to article 130r. Firstly, it added the precautionary principle to the lists of aims of EU environmental policy. Secondly, it provided for qualified majority voting in most areas, except fiscal, town and country or land use planning, or energy measures. More significantly, the Treaty for the first time included environmental protection under article 2, setting out the Community's basic tasks to include 'sustainable growth respecting the environment'. Hildebrand (1993) describes this as a considerable 'greening' of the traditional growth ethos. Yet, as later sections will show, the impetus for environmental protection in the EU appears to have slowed since Maastricht, casting doubts on the existence of such a 'greening'.

Liefferink, Lowe and Mol (1993) have argued that the EU has moved from providing little more than a loose framework for the development of common environmental policies, to establishing a firm institutional platform for the formulation of such policies. Liberatore (1991), on the other hand, describes EU environmental policy as rather weak and claims that the most significant impact of Community efforts in the environmental field has been to encourage the convergence and strengthening of national regulation among member states, rather than to create a distinct European policy processes and institutions. The latter viewpoints appears rather too pessimistic, while the former does not take



account of the many shortcomings of EU policy, which the next section will explore in more detail.

#### 4. Shortcomings and Limits

EU Environmental policy cannot be described as comprehensive, partially due to the fact that EU action is not appropriate in all areas, and partially as a result of the reluctance of member states to cede powers in certain areas to the EU. Action has been most wide ranging in the areas of water and air pollution, while some directives also deal with noise, chemicals, nature conservation and waste. Furthermore, there are also some pieces of legislation of a more generic nature. However, even where legislation exists, there is a well documented 'implementation gap'. While this problem has been recognised since the mid-1980s, the development of Community monitoring and enforcement mechanisms has not kept pace with the expansion of its legislative role (Collins and Earnshaw, 1993).

Directives in the water area were amongst the first to be issued and there are a range of directives laying down quality objectives for drinking water, bathing water as well as shell fish waters and groundwater. These have plenty of regulatory force and have major financial implications for the implementation authorities (Richardson, 1995). According to Krämer (1995), with some of the early directives, many member states were unaware about the high compliance costs and they are still not facing up to their responsibilities. Cost were somewhat more transparent in the case of the 1991 Urban Waste Water Treatment Directive, which will ensure that secondary sewage treatment will become the norm across the EU, thus promising considerable improvements in river quality as well as bathing water, especially in the Mediterranean countries. Yet, a number of complaints about the high costs of implementation have been voiced by the UK and it remains to be seen whether compliance will be any better than with other water directives. In the case of the Southern member states, funding under the cohesion funds for treatment plants is crucial for ensuring compliance.

Air pollution is an area where the justification for EU level policy action is most obvious, considering its transboundary nature. Yet, as Haigh (1992) has shown, EU air pollution legislation has been slow to develop. The Large Combustion Plant Directive (LCPD) took five years of difficult negotiations, while the Directive for Ambient Air Quality Standards for Smoke took seven years. Nevertheless, a variety of directives are now in force, regulating emissions from industrial installations, power stations and cars (in the latter case requiring all cars to be fitted with catalytic converters). The LCPD also established 'bubbles' for  $\text{SO}_2$  and  $\text{NO}_x$  emissions, setting differentiated upper limits for total emissions for each member states. Furthermore, there are

directives establishing limit values for SO<sub>2</sub>, lead, NO<sub>x</sub> and ozone in urban areas, but according to Krämer (1995), these have had no real influence on improving air quality, as there has been no real enforcement.

The EU has been legislating on waste since 1975, covering both the cross-border transport of waste and the disposal of certain hazardous waste products. The success of these directives depends on a complicated system of controls, which according to Krämer (1995) will have to prove itself in an internal market without border controls. In addition to the disposal directives, in 1994 the Council adopted a directive on packaging and packaging waste, which according to Golub (1996a) exemplifies the conflict between the EU's attempt to achieve free trade amongst member states and its environmental policy objectives. The directive grew out of a necessity to harmonise national practices in this area, and the need to counter the attempts of some countries with strict recycling and recovery legislation to ban waste export elsewhere. The aim is for a total recovery rate of packaging waste of 50-65% but it remains to be seen whether this can be achieved.

Nature conservation is an area which has seen limited EU involvement. The 1979 Birds directive had some impact, binding member states to 'preserve, maintain or re-establish a sufficient diversity and area of habitat to enable the survival of all migratory species', as well as 175 particularly endangered species. However, according to Krämer (1995), fewer than half of the habitats falling within the Directive's field of application had been designated by late 1993. Also, there has been some confusion regarding the interpretation of the directive's provisions for hunting. The Commission in 1994 proposed an amendment clarifying hunting seasons<sup>4</sup> but this has not yet been accepted.

In 1992, the so-called Habitats directive was agreed by the Council, requiring the designation of Special Areas of Conservation (SACs) with the aim of establishing a network of protected areas (Natura 2000) by 2004. Member states were supposed to present a list of areas to be designated by June 1995, but most failed to do so and it looks as if the Habitats directive might be subject to similar delays as the Birds directive<sup>5</sup>. In June 1996, France has decided to freeze the designation of SACs on accounts of the uncertain costs regarding the establishment of Natura 2000. At the time of writing, no solution had been found. Yet, with the recently grown concern about biodiversity, exemplified by the signature of the Biodiversity Convention at the Rio Summit, nature conservation is likely to gain in importance as an EU policy area. In 1995, the Commission presented a Communication regarding the preservation of

<sup>4</sup> Agence d'Europe 24/2/94, p. 11.

<sup>5</sup> In January 1996, the Commission sent formal warning letters to six member states about the failure to transpose the provisions of the directive into national laws. *Europe Environment* no. 469, 23/1/96, p.I.6.



wetlands<sup>6</sup>, which is currently under discussion in the Environment Council. However, it is not clear what type of instruments might be employed to achieve the objectives listed in the Communication.

Apart from legislation applying to specific areas, the EU has also developed some instruments which are applicable across environmental media and sectors. The first of these was the Directive on Environmental Impact Assessment of 1985, which requires the assessment of the environmental implications of major projects such as motorways or power plants. Other measures are the 1990 Directive on Freedom of Access to Environmental Information and the 1992 Eco-label Regulation, as well as the 1993 Regulation for a voluntary system of eco-auditing in industry (Environmental Management and Audit Scheme, EMAS). The Eco-label Regulation, although a voluntary measure, has been surprisingly controversial because of disagreements about the criteria for specific products, causing long delays. By April 1996, criteria for only ten products had been adopted and there was little awareness about the eco-label amongst consumers in the EU. Meanwhile, the EMAS Directive is also reported to have teething problems, mainly because of the lack of compatibility with a number of existing national standards and the ISO (International Standards Organisation) standard<sup>7</sup>.

Finally, in recent years, EU environmental policy has also been afforded its own financial resources. In 1992, LIFE, the 'financial instrument for the environment' was established, equipped with 400 million ECUs for four years to assist the financing of pilot and demonstration projects in the areas of clean technology and habitat conservation. For the period 1996-1998 a further 450 million ECU have been proposed. At this level, LIFE clearly pales into insignificance when compared with some other EU funding, such as over 60 billion ECU for the Common Agricultural Policy and the Structural Funds, which have themselves a number of negative environmental implications (Corrie, 1996, Lenschow, 1995).

In sum, EU environmental policy is neither comprehensive nor necessarily effective in the areas which it covers. Some other problems were highlighted by a Court of Auditors report in 1992 which lamented a lack of coordination<sup>8</sup> within the Commission, as well as a lack of transparency and coherence as far as environmental spending is concerned. Nevertheless, there can be little doubt that EU directives and regulations have been instrumental in shaping action in a number of EU countries. While some countries have been very pro-active in environmental policy terms (especially Denmark, Germany and the Netherlands), the Southern member states have been lagging behind but have been forced to act because of EU legislation (Collier and Golub, 1996). EU

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<sup>6</sup> COM (95) 189

<sup>7</sup> *European Environment* no. 462, 3/10/95, p. 1,4.

<sup>8</sup> *Europe Environment* no. 395, 6/10/1992, p. 1,1+2

environmental policy has often been accused for resulting in the lowest common denominator approach. However, as Sbragia (1996) has shown, a 'ratcheting up' effect can also occur. The overall assessment of EU environmental policy during its first 20 years is thus a cautiously positive one. Questions arise as to its further progression. A number of changes have occurred since the 'heyday' of the early 1990s which provide new challenges to, but possibly also opportunities for, environmental protection in the EU. The next three sections discuss these changes in more detail.

## 5. The Influence of the Subsidiarity Debate

As Golub (1996b) has argued, the concept of subsidiarity has always existed in EU environmental policy, although until recently more implicitly, with the first EAP for example referring to five possible levels of action and stressing the need 'to establish the level best suited to the type of pollution and to the geographical zone to be protected'. The SEA for the first time incorporated provisions which would later become known as the subsidiarity principle, but only in Article 130r covering environmental policy:

'The Community shall take action relating to the environment to the extent to which the objectives...can be attained better at Community level than at the level of individual member states'

In practice, these provisions had little influence on the development of EU environmental policy prior to the Maastricht Treaty. As already mentioned, environmental proposals actually reached record numbers and several important directives were adopted post-SEA. However, during the discussions surrounding the Maastricht Treaty, the subsidiarity issue was suddenly pushed to the top of the political agenda, not only in relation to environmental policy but for EU policy-making as a whole. The Maastricht Treaty then included the following requirement:

'In areas which do not fall within its exclusive competence, the Community shall take action...only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the member states and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community'.

This ties in fairly well with environmental objectives. As Collier (1996b) has discussed, subsidiarity is not necessarily a negative goal in environmental terms. For certain problems, action at national, regional and local levels (rather than at



EU level), 'as close to the citizen as possible' (as the 5th EAP advocates) might be more appropriate. Ideas of local involvement have long been favoured by environmentalists, and participation and decentralisation are themes contained in Agenda 21, the declaration on sustainable development signed at the Rio summit by all EU member states. However, the subsidiarity debate has seldom focused on these aspects, instead resting on political or economic expediency rather than an environmentally-based choice of the most appropriate level of action.

As a result of the subsidiarity debate, several states compiled 'hit' lists of legislation which in their opinion interfered unnecessarily with national sovereignty by exceeding the legitimate scope of EU power. Environmental measures figured prominently in these lists. For example, the UK list of 71 pieces of legislation included 27 which pertained to the environment (Axelrod, 1994; Wils, 1993)). Despite fierce resistance from the European Parliament, the Commission eventually surrendered to pressure from several member states, most notably the UK. This has mainly taken two forms:

- downgrading of environmental proposals (e.g. from directives to framework directives or even recommendations)
- repatriation of proposed measures (in some cases existing directives) to the national level

Examples of the influence of subsidiarity vary from the directive on minimum standards for zoos, which was downgraded to a recommendation, to the demise of the proposals for a carbon/energy tax (see below). The Recommendation on Zoo Animals had still not been adopted at the time of writing and at the July 1996 Environment Council, Germany once more raised the banner of subsidiarity, objecting to the requirements set in the proposed recommendation<sup>9</sup>. The fact that even non-binding recommendations have a difficult passage for subsidiarity reasons, does not bode well for environmental directives.

The potential demise, or at least scaling back of European-wide environmental standards might allow pro-active leader states or regions to forge ahead free from EU constraints, but it poses a number of potential threats to environmental improvement, perhaps the greatest being the reliance on reluctant national and subnational government structures. In the past, EU policies have been important for remedying the dismal environmental record of many national governments, and many of the environmental achievements witnessed at the national level were the result of direct pressure brought through EU obligations. Returning control over environmental policy to these states, or their regional governments, does not bode well for the future (Collier and Golub, 1996). The problem is particularly acute in southern European countries, where economic

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<sup>9</sup> *Europe Environment* no. 480, 27/6/96, ppV, 22.

disparity between sub-national regions results in fierce economic competition for employment and inward investment, leading to frequent agency capture and outright environmental policy implementation failure (Pridham, 1996). Section 8 will return to this issue in relation to the EU's climate change policy.

## 6. Towards Sustainability?

As already mentioned, the developments surrounding the 1992 Rio Summit, in particular the attention afforded to the notion of sustainable development, promised to fundamentally affect policy-making, with a much greater emphasis on the integration of environmental concerns into government policy-making in general. The need for such a change of direction became increasingly apparent during the 1980s, with the realisation that environmental problems could not necessarily be solved through 'technical fixes' and that the roots of the problems were not only market failures, but often other government policies themselves. In the EU, the environmental impacts of the Common Agricultural Policy (CAP) were an obvious demonstration of this.

The report of the World Commission on Environment and Development entitled our 'Common Future' is generally considered as the catalyst for the sustainability debate (Collier, 1994), with Agenda 21 agreed at the Rio summit then providing the basic framework for national sustainable development plans. The Commission has made sustainable development the central theme of the 5th EAP, entitled 'Towards sustainability'. Within the programme:

'the word 'sustainable' is intended to reflect a policy and strategy for the continued economic and social development without detriment to the environment and the natural resources on the quality of which continued human activity and further development depend' (European Commission, 1992a).

The approach adopted is supposed to mark a new direction for EU environmental policy, focusing on target sectors (energy, industry, agriculture, tourism and transport), broadening the range of instruments and applying the principles of subsidiarity and shared responsibility, involving all economic and social actors. However, it is not clear whether the embracing of the 'sustainable development' concept will be very helpful for the development of EU environmental policy, at least not until it can be made more tangible. A main problem is that the concept is extremely vague and has been subject to a variety of interpretations. Pearce (1993) identifies four different types of sustainability, ranging from very weak to very strong. Although both environmentalists and industrialists/economists talk about sustainable development as their main objective, deep divisions between the two camps still exist. Such a division is



reflected in the distinction made in the EU between sustainable 'growth' (as in the Maastricht) and sustainable 'development' (as in the 5th EAP). While these two terms appear sometimes to be used interchangeably, sustainable development as a concept is in principle much broader and includes quality objectives, while sustainable growth focuses on quantity (Bartelmus, 1994).

Baker (1996) has argued that the distinction between sustainable development and sustainable growth may not be so incidental, considering the long and protracted drafting of the Treaty. Certainly, the 5th EAP reflects mainly the thinking of DG XI (the Environment Directorate-General in the Commission), while the Maastricht Treaty is much more indicative of the general climate of opinion amongst policy-makers. Nevertheless, there is a consensus within the different sustainability paradigms about the need for a better integration of economic and environmental objectives, again a focus of the 5th EAP. The lack of integration into major policy decisions became very apparent with the Single European Market initiative, with a task force hastily assembled to report on the matter after most of the decisions had been taken (Weale and Williams, 1993). The Single Market was conceived prior to the EU embracing the sustainable development concept but the findings of the Commission's interim review of the 5th EAP, published in December 1995, show that the situation has not changed significantly. While it points to progress in some areas, it also observes that:

'There is insufficient awareness of the need and a lack of willingness to adequately integrate environmental and sustainable development considerations into the development of other policy actions'.

...what is lacking are attitude changes and the will to make the quantum leap to make the necessary progress to move towards sustainability (European Commission, 1995).

This situation is not entirely surprising. Lenschow (1995) has pointed out that while political elites may have subscribed to the sustainability concept, it must not be overlooked that most political decisions are taken with a short-term and sector specific perspective. Even if in the long-term and at the aggregate level, environmental protection and economic development may be compatible, in the short-term and at the sectoral level, trade-offs have to be made. Nevertheless, there is some better awareness of environmental problems in other DGs and some changes have been made both to the CAP and the Structural Funds.

A main priority for making the sustainability concept more useful in policy-making must be to improve its measurability by developing sustainability indicators. Suggestions have been made to make better use of the ecological concept of carrying capacity (Jacobs, 1991) or to quantify the 'environmental

space', i.e. the total amount of environmental resources<sup>10</sup> that human kind can use without impairing the access of future generations to the same amount (Friends of the Earth, 1995, McLaren, 1996). An important dimension will also be a departure from the use of narrow economic growth indicators (i.e. GDP/GNP) for measuring progress. The short-comings of the current economic accounting system have been widely acknowledged and the Commission itself has suggested to develop a European System of Integrated Economic and Environmental Indices (ESI) which could then serve for defining sustainability targets (European Commission, 1994a). To date no widespread acceptance for this proposal is evident, although work on sustainability indicators is continuing in the European Environment Agency.

## 7. Deregulation and the Market Doctrine

The sustainable development and the subsidiarity issues have coincided with a growing concern about the negative economic effects of various forms of state intervention, especially on industrial competitiveness, which has resulted in pressure for deregulation and liberalisation. A number of member states have set up deregulation 'task forces' and some, like the UK, have been very active in liberalising certain parts of the economy, especially those dominated by public utility companies. Although such activities have not been specifically concerned with environmental issues, in some cases, they have had a knock-on effect on the environment, as the example of electricity sector liberalisation in the UK shows (Collier, 1995). Apart from liberalisation, deregulation has two other facets. One is legislative simplification and the withdrawal of certain pieces of legislation, the other should be more appropriately termed 're-regulation', i.e. the use of different types of instruments.

At EU level, the deregulation drive started with the Single Market programme but has intensified over the past two years, with environmental policy as one of the focal areas. In September 1994, the Commission established a high-level group of 'independent experts' to examine the impact of EU and national legislation on employment and competitiveness. The Molitor report, named after the chairman of the group, was published in 1995 and included an assessment of environmental legislation, calling for a more market-based approach to environmental protection (European Commission, 1995b). While the report has been heavily criticised for its methodology and narrow focus and does not appear to have been overly influential, pressure for regulatory changes in environmental policy is likely to continue.

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<sup>10</sup> For example absorption capacity, energy, non-renewable resources, agricultural land and forests.



One of the fundamental assumptions of the sustainable development concept is that economic development and environmental protection are inherently compatible (at least in the long-term) and that many opportunities exist for policy actions which make both economic and environmental sense. An obvious example here would be energy efficiency improvements, of which there are many cost-effective examples. Yet, because of the existence of a variety of market failures, such improvements are currently not being made. The solution is thus assumed to be a policy which is based on remedying such market failures, especially those such as taxes and charges, which aim at internalising the external costs of production (Collier, 1997). A market-based approach is also supposed to leave greater flexibility for economic actors in achieving environmental objectives.

The use of taxes, as a means of internalising the clear external costs associated with various economic activities, appears promising. However, the valuation of these external costs is far from straightforward. There are clear methodological problems and ethical questions arise about the intrinsic value of nature, as well as of human life. Further problems occur, in the case of a carbon tax related to the high price elasticity of energy, as well as a range of other market failures (Jackson, 1992). To be effective, a carbon tax would probably have to be set at a level which would be highly socially regressive, economically damaging and politically unacceptable. Generally, there are suggestions that taxes are less reliable than regulatory tools (OECD, 1993) in that polluters may choose to pay the tax and continue to pollute. However, despite these problems, a greater degree of internalisation of the external costs of production is clearly desirable even though environmental taxes may need to be applied gradually and with compensatory measures.

One suggestion that has found increased support in recent years is that of integrating environmental taxes into a much broader environmental tax reform. At EU level, this idea was put on the agenda in December 1993, when the Commission, under the initiative of then President Delors, published the White Paper on Growth, Competitiveness and Employment (European Commission, 1993). The paper stressed the promise of the so-called double-dividend, i.e. the possibility of integrating environmental protection with economic growth through, reducing labour taxes as well as job creation in the environmental field. A supporting study was prepared by a team of consultants led by DRI and published in 1994 (DRI, 1994).

The study considered the integration of a range of mainly fiscal measures into sectoral policies, with a concurrent reduction of income or payroll taxes. Environmental externalities were thus supposedly integrated into other policies in a cost-effective manner, with a slightly beneficial effect on GDP growth (2.2% per annum compared to a predicted 2.15% in the reference scenario). This so-called 'integrated' scenario suggested substantial reductions in SO<sub>2</sub> and

NO<sub>x</sub> emissions, although it actually predicted a small increase (around 4%) in CO<sub>2</sub> emissions by 2010. From an environmental viewpoint, no real 'victory' can thus be claimed, as the 'win-win' approach still leads to increases in CO<sub>2</sub> emissions. Carraro, Galeotti and Gallo (1995) find in a similar analysis short-term emission reductions but long-term increases, as net wage increases stimulate the consumption of all goods including energy.

Recently, the tax reform issue has dropped off the political agenda, with little support in the Santer Commission. The idea of a tax certainly has not found much favour with industry. At EU level, the use of economic instrument is also problematic for other reasons. EU intervention in fiscal policy has always been an area of contention, as the problems encountered during the tax harmonisation efforts of the 1980s exemplify. A number of member states, in the forefront the UK, have been very determined to preserve their sovereignty in the fiscal area, whether related to environmental protection or not. This is reflected in the specific exclusion in the Treaty on European Union of fiscal measures from qualified majority voting under article 130r. The subsidiarity principle has strengthened the member states' scope for dissension, as the below discussed example of the carbon/energy tax shows.

Apart from taxes, market-based environmental policy also includes instruments such as negotiated agreements with industry, environmental management systems and labelling. The EU has made some progress in this area with the regulations on eco-labelling and on eco-auditing, notwithstanding the previously discussed teething problems. Neither of these are compulsory, which renders their effectiveness rather uncertain. To date, there is no concrete experience with EU wide voluntary agreements but first step in this direction are currently under way.

In June 1996, the Council gave the Commission a mandate to negotiate a voluntary agreement with car manufacturers on fuel efficiency, as a means to reduce CO<sub>2</sub> emissions. In 1992/93, there had been discussion about mandatory standards and it is not clear how effective such voluntary agreement, if reached, would be. Meanwhile, experience with negotiated agreements in the Netherlands, the member state which makes the most intensive use of these instruments, is ambiguous, especially as far as implementation and enforcement are concerned (Lieverink and Mol, 1997). In general, market-based instruments might facilitate environmental policy-making but should not be viewed as a panacea, nor necessarily as a means for reducing the regulatory burden. In order to guarantee pollution reduction, these instruments will have to be set within a regulatory framework which establishes quantitative goals, monitors progress and provides enforcement mechanisms. (Collier and Golub, 1996).



## 8. Climate Change, a Case Study in 1990s EU Environmental Policy Making

In many ways, the climate change issue reflects the changes that have affected EU environmental policy making more generally. Climate change is undoubtedly one of the most complex environmental issues facing policy-makers. In the EU, CO<sub>2</sub> emissions account for the bulk of greenhouse gas emissions and over 90% are a result of energy and transport activities, both of which are essential to economy as well as current life styles, with no easy 'end-of-pipe' solutions. Emission reductions can thus not be achieved through environmental policy instruments alone but require changes in the direction of energy and transport policies, focusing primarily on greater energy efficiency, fuel switching in electricity generation and modal shift in transport (Collier and Löfstedt, 1997). Climate change is a classic example for demonstrating the need for policy integration and has been a major focus in the sustainable development discussions.

The EU member states agreed on a common stabilisation target for CO<sub>2</sub> emissions by 2000, based on 1990 levels, before the 1992 Rio Summit. However, disagreements already emerged in this early period about the potential for target and burden sharing. In the end, the common target was relying on the fact that some countries (Denmark, Germany and the Netherlands) had already committed themselves to much stricter targets, the achievement of which would allow an overall stabilisation (Collier, 1994).

The Commission then presented proposals for a climate change strategy which promised some real progress towards greater sustainability, providing for a carbon/energy tax, an energy efficiency programme, and a renewable energy programme (European Commission, 1992b). However, getting the proposals accepted has proved difficult. The carbon/energy tax has had the most troublesome time, despite the general calls for more market-based instruments from various quarters, including industry. In this case, industrial opposition was strong from the beginning and resulted in some early concessions for energy-intensive energies. Despite these concessions, the proposals made little progress when discussed at various environment and ECOFIN (Economic and Finance Ministers) Council meetings.

Because this was a fiscal measure, qualified majority voting (QMV) was not applicable and unanimous agreement was required. The main objection came from the UK, which was vehemently opposed to any European intervention in tax matters, invoking the subsidiarity principle. Furthermore, France wanted a pure carbon tax, so as to protect its nuclear industry and the cohesion countries were only prepared to accept the proposal in return for additional structural funding (Skjaerseth, 1995). As no progress was evident, various new approaches were discussed, including a possible reform and harmonisation of current energy taxes. However, no agreement could be reached on this either. Finally, after four years of discussions, the idea of a common carbon/energy tax

was all but abandoned at the Essen summit in December 1994. The Commission was asked to submit a new proposal outlining common guidelines for those member states who want to implement their own taxes. However, the amended Commission proposal<sup>11</sup> still left the member states divided and at the time of writing, no solution to this impasse was evident.

The carbon/energy tax was expected to achieve the bulk of the emission reductions required to achieve stabilisation<sup>12</sup>. In its absence, the other measures of the strategy look decidedly inadequate. The SAVE programme for energy efficiency consists of financial assistance for some pilot studies and a framework directive, which leaves member states so much flexibility in its implementation that the Commission itself has already commented that the estimation of the effects of SAVE is highly uncertain (European Commission, 1994b). As Collier (1996b) has discussed, the application of the subsidiarity principle was the main reason behind SAVE's transformation into a framework directive. A proposal for SAVE II was presented by the Commission aiming at energy savings of 60-70 million toe per year by the year 2000 and involving a budget of 150 million ECU between 1996 and 2000. However, in the Energy Council in May 1996, France, Germany and the UK refused to approve a budget any higher than 45 million ECU<sup>13</sup> which makes SAVE II unlikely to become any more effective than SAVE I. Furthermore, the renewables programme ALTENER is also underresourced (40 million ECU for 5 years) and consists mainly of non-binding targets.

Meanwhile, other developments in the energy area demonstrate how environmental concerns have not been properly integrated into other policy areas. Proposals for greater energy sector liberalisation, in pursuit of an Internal Energy Market, have paid little attention to environmental concerns (Collier, 1994). Agreement on liberalisation was reached in the Council in July 1996 (with an initial opening up of 30% of the energy market), with the ultimate aim of achieving lower energy prices and improving industrial competitiveness. Lower energy prices undoubtedly would provide an even greater disincentive to investments in energy efficiency improvements, but little attention has been paid to this conflict of interest. Furthermore, there has been no attempt to integrate these proposals with those for a Directive on Rational Resource Planning in the Energy Sector, published in 1995. These developments are indicative of the existence of a separate, two track approach to energy and environmental policies, implying that a more sustainable energy policy, as referred to in the Commission's recent White Paper on Energy Policy (European Commission, 1995c), remains largely an illusion.

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<sup>11</sup> COM (95) 172.

<sup>12</sup> Emissions were expected to increase by 12% between 1990 and 2000, mainly due to increased energy consumption. Stabilisation thus effectively meant a 12% emission reduction.

<sup>13</sup> *Agence Europe*, 6/5/96, p.3



Returning to the issue of subsidiarity, the EU's failure in implementing an effective climate change policy would be irrelevant if the member states (or indeed regional or local authorities) were mounting comprehensive responses themselves. In principle, all 15 member states are committed to action through their signature of the 1992 Framework Convention on Climate Change. However, as a recent comparative study of seven member states (including the five largest CO<sub>2</sub> emitters: Germany, France, Italy, Spain and the UK) carried out at the European University Institute has shown, activities at the national level are rather patchy and often incoherent. Some greater commitment can be found at the local level in some countries (especially Germany and Sweden) but local authorities are constrained in their scope for action due to an unfavourable national and EU policy context. The study identified a clear role for EU action in a number of areas, in particular in relation to the integration of climate change concerns into specific EU policies, plans and operations (especially the proposals for energy sector liberalisation, funding under the Structural Funds, as well as the Trans European Route Network plans) and the application of energy consumption standards for motor vehicles and electrical appliances. Furthermore, a system of tradeable emission permits for CO<sub>2</sub> could be an alternative to a tax-based market approach (Collier and Löfstedt, 1997). However, currently the political will to pursue any of these proposals is missing and a recent assessment of member states policies by the Commission has confirmed that most countries are likely to miss their emission targets for 2000 (European Commission, 1996a).

## 9. The Current Policy Agenda

While the lack of political will appears to be a general problem in EU environmental policy in recent years, it is still going ahead with legislative measures in certain areas. Currently, a number of directives as well as amendments to existing directives and regulations are under discussion in the Council, the most important<sup>14</sup> of which are shown in table 1 shows. In recent months, the Council has reached a common position on a number of proposals which have seen much dissension during the negotiations. Out of the proposals listed, the PCB directive has been longest under discussions, with the first Commission proposals made in 1988.

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<sup>14</sup> This list does not claim to be exhaustive, new proposals continuously come onto the agenda, while others disappear.

*Table 1: EU environmental policy - current agenda*

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*recently adopted by the Council (September 1996):*

Directive on Integrated Pollution Prevention and Control (IPPC)

Directive on Ambient Air Quality - common Council position Nov. 95

*under discussion in the Council:*

Directive on the Marketing of Non-Agricultural Biocides - common Council position July 96

Amendment to Regulation on Ozone Depleting Chemicals (on phased reduction of HCFCs and methyl bromide) - common council position March 96

Amendment of the Environmental Impact Assessment Directive - common Council position Dec. 95

Directive on the Disposal of PCBs and PCTs - common Council position Nov. 95

Directive on Landfill Waste - common Council position Oct. 95

Auto-Oil Programme (Directive proposals for emissions from private cars and quality of fuel)

Directive on Emissions from Off-Road Vehicles

Directive on Emissions from Small Power Plants (50-100 MW, SO<sub>2</sub>)

Directive on Incineration of Dangerous Waste

Amendment of the Birds Directive re. hunting seasons

*under preparation in the Commission:*

Framework Directive on Water Resources

Amendment to Car Emissions Directives

Directive on Emissions from Commercial Vehicles and Lorries

Directive on Emissions from Tractors

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The UK has invoked the subsidiarity principle in the case of the Landfill Directive and subsidiarity is set to continue as an influence in the development of EU environmental policy, with many more framework directives likely in the future. This will for example affect the water area for which a review of policy and regulation was launched in early 1995, officially with a view to ensure a more integrated and coherent approach to the management of water resources. There has been some pressure for a weakening of standards and even talk about a multi-speed Europe, allowing member states to derogate from any requirements the drinking water directive sets for chemical parameters<sup>15</sup>. Meanwhile, there have been no further proposals for market based instruments, although the discussion about the carbon/energy tax still continues, with five member states who have implemented their own taxes (Austria, Denmark, Finland, the Netherlands and Sweden) launching renewed calls for a harmonised tax.

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<sup>15</sup> *Europe Environment*, no.441, 25/10/94, p.1,3

As far as the integration of environmental issues into other policy areas is concerned, few new initiatives are in sight. The Structural Funds and the CAP have seen changes in recent years but these still appear inadequate and environmental protection objectives continue to be compromised. For example, in April 1996, the Commission (citing overriding public interest) approved structural funding for the A20 motorway linking Lübeck and Stettin in the new Länder of Germany, despite it passing through the environmental protection zone Peene Valley, with the likely destruction of a number of habitats<sup>16</sup>. In the energy area, the Commission has finally commissioned a report to assess the potential impacts of the Internal Energy Market on the environment, six years after the first proposals, just when the member states have more or less agreed on them. It seems unlikely that the findings of this report will result in yet another change to the proposals.

Furthermore, a certain loss of momentum can be detected in EU environmental policy in recent years. As Golub (1996b) has shown, the number of environmental proposals has decreased significantly since 1992. Hey (1994) has talked of a 'roll-back' in EU environmental policy. There can be little doubt that environmental protection has become a much lower priority amongst decision-makers than only three or four years ago. This is reflected in the priorities for the Inter-Governmental Conference (IGC), which began its review of the Treaties in March 1996. It seemed unlikely that environmental protection would feature strongly on its agenda, despite the conclusions of the expert Reflection Group, involved in drawing up the agenda for the IGC, which suggested that 'priority should be given to taking account of environmental aspects of Community policies'. While there were some different opinions within the group on the exact nature of changes required<sup>17</sup>, specific suggestions included:

- the incorporation of the Rio agreements into the Treaty
- the inclusion of a reference to the environment in Article 36 (restrictions on imports), Article 39 (objectives of the CAP), Article 74 (transport), Article 129b (Trans European Networks)
- extending the use of the co-decision procedure (Club de Bruxelles, 1996).

Similar calls were made by the Environment Committee of the European Parliament, also including the need for qualified majority voting in all environmental policy decisions<sup>18</sup>. Meanwhile, Environment Commissioner

<sup>16</sup> *Europe Environment*, no. 469, 23/1/96, p. I.5.

<sup>17</sup> One member for example suggested the inclusion in the Treaty of a reference to the gradual phasing out of nuclear power (*Europe Environment*, no. 467, 14/12/95, pp. I. 16+17)

<sup>18</sup> *Europe Environment*, no. 454, 9/5/95, p.I, 3+4.



Bjerregaard has called for sustainable development (rather than growth) to be made a clear and primary objective of the Treaty.

Before the IGC, neither Germany or the Netherlands, traditionally important driving forces behind the development of EU environmental policy, were pushing the inclusion of environmental concerns on the IGC agenda. In the case of Germany, this certainly reflects the declining importance of environmental issues on the political agenda since the economic problems of unification have manifested themselves. However, Denmark and Sweden have spoken out in favour of the environment and the declaration of the Italian presidency from the IGC opening meeting lists 'ecological' imbalances as a key challenge which the EU needs to address<sup>19</sup>.

The question arises whether there is much value in a further amendment to the Treaty provisions for environmental protection. The important principles are already in existence but the real issue at stake is whether there is sufficient political will to make significant changes in a number of policy areas and to seriously push ahead with the objectives of the 5th EAP. The real test are not the inclusion of Treaty provisions but real action in terms of legislative and other policy measures. An expansion of QMV would certainly be a way forward.

Furthermore, the implementation of existing measures continues to present a real problem. In 1995, member states had notified implementing measures for only 91% of the EU's environmental directives, leaving as many as 20 or 22 directives not transposed in some member states. Furthermore, in October 1996, over 600 environmental complaints and infringement cases were outstanding against member states (European Commission, 1996b). As an initial contribution to dealing with the implementation gap, the Commission issued a Communication in October 1996. The Communication makes a number of suggestions including:

- issuing guidelines for member states' inspection tasks
- encouraging minimum levels of access to national courts
- ensuring maximum clarity, transparency and certainty in the drafting of legislation
- including a provision in the legislation to require national implementation measures to include deterrent sanctions for non-compliance
- greater involvement of the European Environment Agency
- a strengthening of the informal IMPEL network (EU Network for the Implementation and Enforcement of Environmental Law)

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<sup>19</sup> *ENDS Report* no. 255, April 1996, pp.40-41.



It is too early to say whether progress can be made on the implementation front. The problem has been well documented for over ten years, and the European Parliament has issued a number of resolutions calling for action. On the positive side, information on environmental quality is becoming more available and transparent, which combined with attention to the issue of access to justice, may help in the enforcement process.

## **10. Conclusions: Future Prospects for EU Environmental Policy**

Environmental policy has become an important aspect of European integration over the past 20 years but, like other policy areas, its development has not been without problems. Diverging national interests, differing commitments to environmental protection, varying implementation costs and political factors have presented obstacles. Yet progress has been made in a number of areas and as far as the water, air and waste areas are concerned, the EU has a major bearing on national policies. The EU has also become increasingly involved in nature conservation and there have been calls for greater involvement in other areas such as land-use planning.

The paper has argued that during the 1990s, EU environmental policy has faced a number of new challenges. Firstly, the increased application of the subsidiarity principle, although in essence a sensible concept, has provided reluctant member states with new ammunition against the centralisation of policy-making. However, it appears that without common action, and despite the increasing globalisation of environmental policy through UN conventions, high environmental standards cannot be assured. Environmental commitment still varies across the EU and certain member states lack the will and/or the capacity to design and implement effective environmental policies on their own accord.

The re-orientation of policy making towards sustainable development has to date made little progress. Short-term and sectoral thinking prevails amongst policy-makers both at the national and at EU level, impeding the integration of environmental concerns into other policies. The vagueness of the sustainability concept and its various interpretations, including distinctions between growth and development, raise doubts about its usefulness. A way forward might be attempts at a quantification of the concept and the use of sustainability indicators, as well as targets. Participatory decision-making processes are important for achieving a consensus on such targets.

Deregulation so far has had a limited effect on environmental policy and a more market based approach has remained elusive. Despite the promise for greater compatibility between economic and environmental objectives, economic instruments have not proved to be politically any more feasible than

regulatory instruments. Fiscal instruments are likely to continue to be problematic at EU level because of the subsidiarity principle and industrial opposition which has strong lobbying abilities both at EU and the national level. Because of different industrial structures, economic instruments will affect different member states in different ways and are thus not an easy option, especially where unanimity is required.

It is not easy to predict the future progression of EU environmental policy. Currently, environmental issues have descended on the political agenda, both at EU level and in the member states. Germany, which has generally been considered a prime mover in environmental policy, has recently become much more inward looking and preoccupied with economic problems. The accession of Austria, Finland and Sweden, three countries generally considered as environmentally-proactive yet has to make its mark on environmental policy. The current Environment Commissioner, Ritt Bjerregaard, has been embroiled in controversy and does not appear to have a strong and effective voice in the Commission.

Nevertheless, new environmental proposals continue to be put on the table and some, undoubtedly will be adopted. The implementation problem is currently receiving new attention. One is thus tempted to agree with Liefferink et al (1993), who have argued that the process of European environmental policy integration is unlikely to be reversed, although its momentum may be slowed, especially as the wider movement towards European integration itself falters. Meanwhile, there are signs of greater environmental awareness in some of the 'laggard' countries, such as Italy, as well as a new commitment to local environmental policies in a number of countries (e.g. the UK). Other developments may thus compensate for the slowing of EU level momentum. Whether this will be sufficient to deal with the problems identified in the Dobbris assessment, remains to be seen.

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