

EUROPEAN UNION  
COMMON ENVIRONMENTAL POLICY

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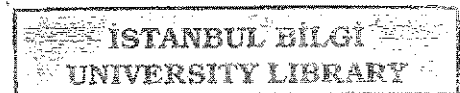
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# **European Community Common Environmental Policy**

## **Abstract**

This study, concerning "European Union Common Environmental Policy", aims to describe how the environmental issues became a common policy at European level. For this purpose, in the first chapter "a chronological look at the common environmental policy", the historical background is provided as well as the place of environmental protection in primary and secondary law. While the second chapter describes the situation of environmental policy at global level such as international organizations, the third chapter tries to give an idea of in which level in fact the EU common environmental policy is shaped. The fourth chapter outlines the objectives and basic principles formed by the EU level and international developments, the fifth chapter outlines the current instruments of the policy. Chapter six, summarizes the policy priorities and the situation of Member States in decision making procedures concerning EU Common Environmental policy. The seventh chapter focuses on the financial support mechanisms of the common environmental policy in order to underline the additional the incentives for Member States to putting emphasise on environmental issues on top of the vital concerns.

## **Introduction**

Although the first EU directive on environment was adopted in 1967 since 1980's the significance of EU policies concerning the protection and the maintenance of the environment and natural resources has increased. During 1980's, the awareness concerning the obstacles to control the hazardous threats to environment has raised. As time went by citizens, decision makers and businessmen have started to observe the hidden danger and have started to demand stronger actions in order to protect the environment at both national and European Union level.

Today, the issue of protecting the environment has become a key topic at the political agenda and it is subject to negotiations at regional, national and international level. Environmental protection was an important chapter during negotiations of the latest EU enlargement due to trans-boundary impacts of pollution. At this context, cooperation and harmonized action at EU and international level seemed to be obligatory.

## **1. A Chronological Look at the EU Common Environmental Policy**

### **1.1. European Community and Environmental Policy**

The reasons of environmental problems principally depend on the production and consumption relations which means nearly every economic activity causes environmental pollution. Whenever there is production, there will be pollution over the environmental values. Besides when the produced ones are consumed, this will result with pollution as well.

On the other hand, to prevent environmental pollution and to clean the pollution creates cost that means the use of other sources. That also means to stop production of other goods in which those sources can be used. The sources that will be used for environmental protection will be covered by sources which could be used for other types of investment.

This is where the states get involved. The main responsibility of the social state is to provide public welfare and security. So the states have to develop preferences between environmental protection and production / development. Continuing the production and development by securing the future of next generations and public's welfare without destroying the environmental values requires the definition of a policy and act according to that policy. This is called environmental policy.

Generally, the environmental policy is defined as defining the preferences and objectives of a country about environmental issues. In general terms, environmental policy is the combination of all the principles accepted and precautions to be taken in order to solve environmental problems.

Although the environmental policies are used to realize different objectives in every country, there are some common objectives. These objectives can be listed in 3 groups. First is, to provide a healthy environment for individuals, second to protect and improve the



environmental values, third is to follow social justice principles during the share of responsibility of the environmental policies.

According to Emre Gönen<sup>1</sup> the conditions for the correct implementation of an environmental policy are:

- Environmental problems can be solved by the common and self-sacrificing efforts of all countries.
- Mutual trust can be realized by respecting the right of all countries' individuals to have access to correct information.
- Without providing the necessary economic support or creating sufficient sources, no environmental policy can be successful.
- Pollution requires rapid decisions and rapid implementation. This means that every country has tasks both nationally and internationally.

European Community that wanted to benefit from the results of combating environmental problems rapidly and in cooperation with other countries passed different stages on this aspect.

Environmental policy has not been stated as an objective in any of the three founding treaties namely EEC, Euratom and ECSC Treaties. Besides, during the foundation of the Community in the economic process environmental problems and a unique environmental policy did not play a role practically. This was the result of post-war general economic developments. The developments to create a common structure had either economic or social objectives. That does not mean that during those days there were no environmental problems.

During the signing of the founding treaties in 50s, the 2<sup>nd</sup> and the 3<sup>rd</sup> articles of Treaty of Rome where the Community defined its limits, there was no environmental policy

objective defined. The EEC Treaty and others were aiming to create a common market and to approach the economy policies of Member States. The main instrument to reach this purpose was the free movement precautions, which consisted of mainly free movement of services, capital and goods and labour and guaranteeing competition.

As time went by, the Community considered environmental protection as a legitimate interest of the Community and accepted it as a policy objective. However, to reach that stage was not easy and caused political conflicts between the Member States and the Community or the pressure groups, institutions and the Member States.

After the adoption of Single European Act in 1987, "environment" has been defined as an independent policy area under Title VII and between Article 130 R and 130 T. However Single European Act can be criticized. Because the term environment has not been defined or explained clearly in the treaty. Instead environmental protection, environmental policy, environmental conditions etc. have been used.

After the signing of Maastricht Treaty in 1992, environmental issues have been regulated under Title XVI. However again there was no definition for the term "environment". The preamble of the Treaty of European Union included the term and stated that the economic and social development should be thought within the frames of environmental protection. The Treaty of Amsterdam has not changed the main structure of articles about the environmental policy, but it changed the procedural structure on the implementation of the policy.

As mentioned above, the term "environment" has not been defined by the treaties. However what it meant to the Community can be understood by indirect means such as communications, declarations or Commission's environmental action programmes.

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<sup>1</sup> "Çevre Sorunları Avrupa Toplulukları ve Türkiye Politikalarının Karşılaştırmalı İncelemesi" Emre Gönen, İKV Yayınları, İstanbul, 1990, P. 27 - 28

Environmental action programmes, which will be explained further in this paper, make a broad definition of "environment". For instance, environmental protection is about shaping the economic and social environment rather than the management of natural resources.

In the First Environmental Action Programme, the objective of Community's Environmental Policy was to improve both the environment, living conditions, the settlement and life quality of Community citizens. As of today, there are 6 environmental action programmes adopted at the Community level and each of them helped to improve the definition of environment.

As mentioned above, although historically, the founding treaties of European Communities did not mention the environmental protection, Article 2 of Treaty of Rome, pointed out the common interest in "raising of the standard of living and quality of life". The rules that were adopted during this period were mainly based on Article 100 and 235 of Treaty of Rome. These articles were about the harmonization of national laws of Member States relation to the establishment of Common Market and its functioning. But as a pre-condition, unanimity was applied for the adoption of directives for the approximation of laws, regulations and or administrative provisions.

Community legislation concerning environment has started to develop since 1970s. The first environmental Directive was adopted in 1967<sup>2</sup>, on classification, packaging and labelling of dangerous substances.

At the July 1972 Paris Summit, it was recognised that, in the context of economic expansion and improving the quality of life, particular attention should be paid to the environment.

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<sup>2</sup> Directive 67/548

At the international level, in 1972, United Nations Conference on the Human Environment was held in Stockholm<sup>3</sup>, from which the Stockholm Declaration created the United Nations Environmental Program (UNEP) and declared June 5 as World Environment Day. Following the UN Conference, in 1973 the first EC Environmental Action Program (1973 – 1976)<sup>4</sup> started.

### **1.1. EU Environmental Action Programs**

The Community environmental policy, for a long time, focused on the solutions of the problems within the Community. However today, the global character of pollution emphasised the necessity of harmonized action at both regional and international level.

The normative nature of environmental policy can be found in legal documents of the Community. However, this represents only a part of the whole picture. The European Union environmental policy and environmental law objectives and centres of gravity can be found in Action Programmes prepared by the Community to primarily protect the environment.

Although Action Programmes constitute the main line of European Environmental Policy, they are not considered as a legal base because of the principle of subsidiarity. Because where ever there is no Community level regulation, the issues concerned are left to the Member States' competency. Therefore these programmes are considered as political opinion declarations which do not create binding results.

Six environmental action programs were adopted since the 1960s under the Community environmental policy. These programs were prepared and implemented by the European Commission. The aim of these programs was to combine different instruments

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<sup>3</sup> For Further information on the Conference see :  
<http://www.unep.org/Documents/Default.asp?DocumentID=97&ArticleID=1503>

such as regulatory instruments, financial instruments, horizontal measures and financial support mechanisms. These programs provided vertical and sectoral approaches. In general they are considered as the Council declarations as explained in the first paragraph. The objectives of all these programs are:

- Combating pollution,
- Integration of all issues concerning environment into Community activities,
- Providing public access to the official information about environment.

The action programs are not binding. They help to improve legislation at the related field because the aimed action required legal rules to be prepared. Until now five environmental action program are completed. Some of the elements of the first environmental action program are inserted into the Treaty of Amsterdam.

#### **1.1.1.1. First Environmental Action Programme:**

The First Environmental Action Programme has been prepared after the 1972 Paris Summit by the European Commission. Although Paris Summit is considered as the start of European Community's environmental policy, in fact, it was the European Commission who first declared the need for a Community level policy in this field. More than one year before the Summit, the European Commission published its first Communication on this issue and a draft Environmental Action Programme<sup>5</sup>. After the Summit, the draft programme has been

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<sup>5</sup> « Avrupa Birliđi ve Türk Çevre Politikası Avrupa Topluluđu'nun Çevre Politikası ı ve Türkiye'nin Uyum Sorunu », Dr. Sevim Budak, Búke Yayınları, İstanbul, Aralık 2000, P.221.

modified and presented to the Council on 10 April 1973<sup>6</sup>. The Programme has been adopted by the Council on the 22 November 1973.

The action plan of the Programme covered the following 2 years after the adoption. The programme composed of two parts. The first part was defining the Community Environmental Policy objectives and principles and was giving a broad definition of the actions to be held at Community level.

Second part was a detailed explanation of the concrete environmental measures in order to protect and improve the environment.

#### **1.1.1.2. Second Environmental Action Programme:**

The Second Environmental Action Programme<sup>7</sup> was adopted on the 17 May 1977. It was an extended and continuing version of the First Environmental Action Programme. However this time, the Programme composed of only one part. There was again the objectives and the principles of Community Environmental Policy at the beginning of the text of the Programme. Prevention of environmental damages, air pollution, combating noise and sea pollution were emphasized. The rational use and the protection of natural resources were mentioned as well.

The Second Environmental Action Programme covered a period between 1977 and 1981. The Second Programme included principles which existed in the First Programme but were not implemented efficiently. One of these principles was "prevention is better than cure". This principle will be explained in further chapters of this paper.

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<sup>6</sup>COM (73) 530, 10.04.1973

### **1.1.1.3. Third Environmental Action Programme:**

The Third Environmental Action Programme was adopted on the 7 February 1983<sup>8</sup>.

Although the first part of the text is similar to the previous ones, this Programme included more concrete objects than the others. Besides, The Third Action Programme is defined as a programme that tries to realize a strategy by all means. Therefore according to the Programme, the objectives of environmental policy, should be inserted to the other policy areas of the Community. Environmental interest should be taken into consideration during the planning stage of energy, industry, transport and especially agriculture sectors.

The text of the Third Environmental Action Programme is shorter than the previous ones. There were no explanation on the Community Environmental Policy objectives and principles but there was reference to the previous ones. Instead of giving the concrete measures for environmental protection in separate parts, there was the explanation on the direction of the general policy. The concrete measures to be taken were not emphasized in the text as well. However these information were provided in A report named "Ten Years of Community Environment Policy" was published at the same time. This report was an evaluation of the last 10 years of the Community Environmental Policy.

Another significance of the Programme was that it was the first time that the Council accepted the positive impact of environmental policy on other policy fields.

As the first time, the Programme and the Report also pointed out the weakness of Member States in implementing the legislation on environment

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<sup>7</sup> OJ C 139, 13.06.1977 P.1

<sup>8</sup> OJ C 46, 17.02.1983 P. 1

#### **1.1.1.4. Fourth Environmental Action Programme**

As explained above, the first two Action Programmes included actions aiming to find rapid solutions to the serious problems that occurred because of pollution. It can be observed that the Third Action Programme supported the prevention of problems before they occur, as it is economically more beneficial. The Third Programme adopted a strategy where the problems are taken into consideration by a more preventive approach aiming to protect the resources and environment. The Fourth Environmental Action Programme considered environmental protection with a broader and more improved approach as the base of social and economic development.

The Fourth Environmental Action Programme was similar to the third one. The differences were:

- It referred to the Single European Act (SEA) and the principles and objectives that are adopted by SEA.
- "European Year of Environment" which started on the 21 March 1987 has been presented as an opportunity to make changes and to start the changes that existed in the Programme.
- The list that included the priority areas for Community activities was longer.

The Programme covered a period between 1987 and 1991 and it was mainly focusing on the target of realizing environmental objectives of SEA. However there were also some new items compared to the previous programmes. For instance, the Programme provided the establishment of a special aid programme in order to fund fields where there are difficulties faced in controlling the pollution. The programme has also brought new methods which can be used in pollution control and prevention. The pollution control system until this



programme was based on sectors, the European Commission proposed a more combined strategy.

#### **1.1.1.5. Fifth Environmental Action Programme**

Maastricht Treaty which was signed on 07.02.1992 and put into force in 01.11.1993 and the agreements and declarations accepted after UN Conference in Rio de Janeiro held in June 1992 changed the approach to the Community environmental policy. European Council adopted the Fifth Environmental Action Programme on the 15.12.1992<sup>9</sup>. Compared to the previous programmes, the Fifth Environmental Action programme set up completely new strategies.

The new programme starts on the 01.01.1993 and it would be in force until 2000. The Commission stated that the programme could be revised if necessary. The Programme is the first one to be adopted by co-decision procedure between the Council and European Parliament.

This Programme was emphasizing the principle of support to sustainable growth which was also mentioned in Maastricht Treaty. It was in line with the Rio Declaration and Agenda 21 which were announced in July 1992 in UN Conference held in Rio de Janeiro. Rio Declaration and Agenda 21 will be explained further in this study.

The Programme consisted of three sections and it was more detailed compared to the previous programmes. First section was a like picture of the current situation. It also summarized the content and the objectives of the Programme, risk management and management of accidents (especially nuclear safety), education, vocational training, the responsibilities of the Member States and the Community etc.

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<sup>9</sup> OJ C138, 07.12.1987 P.1

Second section was about the position of the Community in the international fora. The third section was about the financial aspects and audit problems. Defining the priorities, controlling the implementation of the programme were explained in the third section.

Compared to the other programmes, this programme included diagrams, tables etc. Apart from the programme, at the same time, the Commission provided a report on the current situation of the environment.

The programme underlined the need for shared liability. According to this principle, all the actors should share the responsibility.

The new strategy brought by this Programme is to provide self control to the society on environmental protection. Within the framework of sustainable development, the Programme focused on mainly industry, energy, transport, agriculture, tourism, air quality and waste.

Until the Fifth Programme the instruments used to improve environmental policy were legal instruments. However, on top of the legal instruments, new instruments such as instruments for the market, education programmes to help vocational improvement, or horizontal instruments such as informing the public, financial measures were in this Programme. LIFE programme, the expanded use of regional funds, structural funds, Cohesion Fund were among these new instruments.

The inclusion of the public or interest groups to decision making through the consultative structures was a major change brought by this Programme as well.

Environmental Action Programmes, constitute an important part of the European Community Environmental Policy. They are significant to document what has been done and to present the start of a new stage. The Fifth Environmental Programme has impact on all the policies that are concerning the environmental quality and the use of natural resources. It

proposes to integrate environmental objectives into other policy areas. The local authorities were given a certain liability by this Programme. The technical underground systems that are necessary for environmental protection in nearly the whole Community were under the control of the local authorities.

#### **1.1.1.6. Sixth Environmental Action Programme**

The sixth environmental action program (2001 – 2010) gives a new sense of purpose and direction to the Community's environmental policy. It clearly sets out the objectives for the next decade and determines the actions that will need to be taken within a 5-10 year period if those goals are to be achieved.

The new program puts forward a series of actions to undertake persistent environmental problems in four priority areas:

- Climate change,
- Nature and biodiversity,
- Environment and health and quality of life,
- Natural resources and waste.

The strategic approach is strengthened by five major objectives that each emphasise the need for more effective implementation and more innovative solutions:

- Improve the implementation of existing environmental legislation at national and regional level,
- Integrate environmental concerns into other policy areas,
- Work closely with business and consumers in a more market-driven approach to identify solutions,

- Ensure better and more accessible information on the environment for citizens,
- Develop a more environmentally conscious approach towards land use planning.

### **1.1.2. European Community Environmental Law**

The sources of European Community law can be listed in 3 groups:

- Primary Law (Law created by the founding treaties)
- Secondary Law (Law created by the institutions of the European Community)
- International Agreements and case law of the European Court of Justice

Below can be found the primary law and case law of the European Court of Justice. The secondary law is not included in this study. Because the evaluation of the secondary law may cause a divergence for the author from the scope of the study in particular about the factors that shaped the European Community Environmental Law.

#### **1.1.2.1. Primary Law**

Primary Law is the law created by the founding treaties of the European Community. These are Paris Agreement of 1951 founding ECSC (European Coal and Steel Community) and Treaty of Rome of 1957 founding EEC (European Economic Community) and Euratom (European Atomic Energy Community).

None of these treaties mentioned an environmental policy at the Community level. The necessary competence for shaping the environmental policy was defined clearly in these

treaties. However there were some provisions indirectly mentioning environmental protection. These provisions were used as legal base of the activities until the environmental issues were inserted into Community competence by the Single European Act.

#### **1.1.2.1.1. Environmental Protection in the ECSC Agreement**

There are a few provisions in the agreement about environment. These were Article 55, giving competence to the European Commission on mine industry about employment and safety at work and to organize cooperation between the research centres of the Member States and to support the research activities; Article 3, defining the task of Community on providing better life and working conditions to the employees and rational use of the natural resources.

#### **1.1.2.1.2. Environmental Protection in the Euratom Treaty**

The Treaty, by its nature of having certain provisions on nuclear energy arrangements, was focusing on the protection of human health and support the necessary safety measures to be implemented. Therefore it indirectly had provisions on environmental protection.

Euratom Treaty included wider competence on environment issues compared to the ECSC Agreement. Article 2 and Article 33 were focusing on the radioactive safety and impacts of it on public health and particularly the working conditions related to it. Article 31 was giving competence to the European Council on defining the basic norms. In Article 38 the European Commission states its recommendations on the radioactive content of air, soil and water. Article 34 says that during the dangerous atomic research activities if there appears impacts on the national territory of another Member State, Commission can directly

get involved. In other words, a Member State has to take additional precautions about health protection in order to make dangerous researches on its own territory. This research has to be notified to the European Commission and shall not start prior to the Commission's opinion.

#### **1.1.2.1.3. Environmental Protection in the EEC Treaty**

The EEC Treaty included certain provision indirectly promoting environmental protection. Environmental policy became one of the objectives of the Community since it was considered as a part of the economy policy. Article 2 as amended, constituted the legal base for many actions on the community level. It states:

“The Community shall have as its task, by establishing a common market and an economic and monetary union and by implementing common policies or activities referred to in Articles 3 and 4, to promote throughout the Community a harmonious, balanced and sustainable development of economic activities, a high level of employment and of social protection, equality between men and women, sustainable and non-inflationary growth, a high degree of competitiveness and convergence of economic performance, *a high level of protection and improvement of the quality of the environment*, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States.”

Other related provisions were, Article 42 and 43 (agricultural policy and environment), Article 75 (transport policy and environment), Article 118 (employment policy and environment), Article 92 (competition policy and environment), Article 36 (internal market and environment).

Until the Single European Act was put into force in 01.07.1987, due to not having direct provisions on environmental policy, problems occurred especially on legal basis for actions.

#### **1.1.2.1.4. Single European Act**

In 1987 the Single European Act entered into force. It added a title specific for the environment (Articles 130r – 130t) to the Treaty. With the adoption of Single European Act, the Community had the competence for the first time about environment. Article 174 (ex Article 130 r) defines the objectives of the community policy on environment:

- “ – preserving, protecting and improving the quality of the environment;
- protecting human health;
  - prudent and rational utilisation of natural resources;
  - promoting measures at international level to deal with regional or worldwide environmental problems”

Chapter VII of Single European Act, has defined the principles of Community activities concerning the environmental issues. The Treaty also introduced the new idea which is “environmental protection requirements shall be a component of the Community’s other policies.”

#### **1.1.2.1.5. Maastricht Treaty**

The entry into force of the Treaty on European Union (Maastricht Treaty) in November 1993 brought further progress on several fronts. It added the concept of “sustainable and non –inflationary growth respecting the environment” to the European Community’s tasks and wrote the precautionary principle into the article on environment. It

also upgraded “action... relating to the environment” to the status of a “policy” in its own right.

#### **1.1.2.1.6. Treaty of Amsterdam**

The Treaty of Amsterdam introduced some important institutional issues related to the protection of environment. Importantly, the Treaty puts the promotion of sustainable development into the preamble and Article 2, adding it to the list of EU objectives along with “a high level of protection and improvement of the quality of the environment.”

##### **1.1.2.1.6.1. Co-Decision Procedure**

The role and the importance of the European Parliament was increased through the extension of the co-decision procedure which under the new Treaty will apply to all environment initiatives based on Article 175 (1) (former Article 130s (1)).<sup>10</sup>

“ The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions, shall decide what action is to be taken by the Community in order to achieve the objectives referred to in Article 174.”

Previously most environment issues followed the cooperation procedure, under which the Council is not obliged to take the Parliament’s recommendations into account.

Under co-decision procedure, the Parliament can add amendments to Commission proposals and differences in opinion with the Council are settled in a conciliation committee. Concerning the financial measures related to environmental policy, the rules of water management, land use etc. still consultation procedure is kept (Article 175 (2) AT).

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<sup>10</sup> Avrupa Birliği’nin Çevre Politikası ve Türkiye’nin Uyumu, İktisadi Kalkınma Vakfı, İstanbul 2001



“By the way of derogation from the decision – making procedure provided for in paragraph 1 and without prejudice to Article 95, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, the Economic and Social Committee and the Committee of the Regions, shall adopt:

- provisions primarily of a fiscal nature;
- measures concerning town and country planning, land use with the exception of waste management and measures of a general nature, and management of water resources;
- measures significantly affecting a Member State’s choice between different energy sources and the general structure of its energy supply.

...”

According to this procedure, the work is shared between the Commission and the Council. Under this procedure, the Commission proposes, the Council takes the final decision. But before any decision is taken by the Council, other stages involving the European Parliament, Economic and Social Committee and Committee of Regions have to be concluded.

#### **1.1.2.1.6.2. Member States’ Laws**

Previously, the Commission had occasionally been required to act in cases where Member States implemented strict environmental laws, considered, by other Member States, to breach EU internal market rules. Under Treaty of Amsterdam, the scope of Article 95 (former Article 100a (3-5)) has been widened, allowing Member States to diverge from harmonized internal market rules by maintaining or introducing stricter environmental laws than those imposed at EU level.

Known as the “environmental guarantee”, this provision was opposed by several Member States on the basis that it could lead to trade protectionism. However, a compromise was reached which allows Member States to introduce stricter laws based on “new scientific evidence” (Article 95 (5) EC).<sup>11</sup> Member States are required to notify the Commission of such measures, which the Commission is then obliged to approve or reject within six months.

“Moreover, without prejudice to paragraph 4, if after the adoption by the Council or by the Commission of a harmonisation measure, a Member State deems it necessary to introduce national provisions based on new scientific evidence, relating to the protection of environment or the working environment on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure, it shall notify the Commission of the envisaged provisions as well as the grounds for introducing them...

When, pursuant to paragraph 6, a Member State is authorised to maintain or introduce national provisions derogating from a harmonisation measure, the Commission shall immediately examine whether to propose an adaptation to that measure.”

Article 95 (6) states that:

“In the absence of a decision by the Commission within this period the national provisions referred to in paragraphs 4 and 5 shall be deemed to have been approved.”

#### **1.1.2.1.6.3. Integration of Environmental Policy into Other Policy Areas**

As mentioned above, Article 2 states that “a high level of protection and improvement of the quality of the environment” must be considered when outlining EU goals in relation to establishing common market and monetary union. A new Article 6 (EC) adds that “Environmental protection requirements must be integrated into the definition and

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<sup>11</sup> EU Environment Guide 2000, The EU Committee of American Chamber of Commerce, 2000

implementation of Community policies and activities referred to in Article 3, in particular with a view to promoting sustainable development.”

Lastly, a declaration was inserted in the final act, which notes that the Commission will undertake to prepare environmental impact assessment studies when making proposals, which may have significant environmental implications.

This area has seen important follow up in the form of a Commission working paper entitled “From Cardiff to Helsinki and beyond”<sup>12</sup> which looks at the different strategies used by the sectoral Councils (Agriculture, Internal Market etc) to help protect the environment. The Cardiff European Council in 1998 had invited all Councils to develop strategies to integrate environmental matters into their work. Adopted on November 1999, this paper represents a first analysis of the integration of environmental matters into other sectors.

The Community until today, aiming to limit the pollution, has adopted around 300 pieces of legislation that set the minimum standards especially about waste management, water quality and air pollution. In 1999, the Commission in one of its working paper, described the issue of environmental protection as one of the most important threats to the Community.

#### **1.1.2.2. Case Law**

The European Community Environmental Law has been shaped by the decisions of the European Court of Justice as well. Case law of the Court guided the institutions and Member States on the interpretation of the primary and secondary law.

There are two major cases in this aspect. One of them is known as Danish Bottle Case and the other one is known as Wallonian Waste Case. The European Court of Justice

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<sup>12</sup><http://europa.eu.int/comm/environment/docum/sec991941.htm>

decisions on these two cases considerably strengthened the status of environmental protection in Community law. This new status was formalised by the Maastricht Treaty in 1992, as mentioned in above chapters, which expanded Article 130r (2) of the EC Treaty to allow Community legislation to include safeguards that permit Member States to take strict provisional measures to protect the environment, subject to inspection of those measures by the Commission.

Although environmental policy is now well enshrined in the treaties, the role of the Court in strengthening and expanding its status should not be underestimated.

#### **1.1.2.2.1. Danish Bottle Case**

In 1988, an important case about the barriers to trade in the common market was ruled at the Court of Justice. This case is known as the Danish Bottle Case.

The parties concerned were the European Commission on one side and Kingdom of Denmark on the other. Denmark, in order to protect the environment, introduced and applied Order No 397 of 2.7.1981 that meant that:

- All containers for beer and soft drinks must be returnable, and that
- The containers must be approved by a National Agency that will limit the number to about 30 in order to make the system work in practice (costs, etc.) This condition was amended by Order No 95 of 16.3.1984: To make it possible for foreign producers to test the Danish market, non – approved containers may be used (providing they are still fulfilling condition above) for quantities not exceeding 3000 hectolitres a year per producer.

This system proved highly effective with some 99% of bottles returned and then re-used up to 30 times.<sup>13</sup> However concerning the quota system, the main problem discussed in the sentence was whether or not Denmark failed to fulfil its obligation under the EC Treaty Article 30 which states “Quantitative restrictions on imports and all measures having equivalent effect, shall without prejudice to the following provisions, be prohibited between member states.”

The decision of the Court about environmental perspective was encouraging. The Court ruled that the system was a necessary element of Denmark’s objective to combat environmental degradation by reducing packaging waste and that the mandatory nature of it was essential to make it work. In fact, the Court ruled that such measures were particularly legitimate because the protection of the environment was one of the EU’s principal objectives. The Court, also by this ruling, allowed Member States to exceed the level of environmental protection beyond Community standards.

#### **1.1.2.2.2. Wallonian Waste Case**

The Court went on to extend the principles of the Danish Bottle case in the Wallonian Waste Case<sup>14</sup> which concerned a ban on waste exports by Wallonian authorities. The European Court of Justice acknowledged that, since waste is a form of “goods”, any restriction on its free movement amounted to an infringement of Article 30 of the EC Treaty. However, the Court also held that restrictions on free movement could be justified on grounds of environmental protection because waste is a form of goods that has a “special character”.

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<sup>13</sup> Friends of the Earth International, Trade, Environment & Sustainable Programme, [www.foei.org/trade/activistguide/danish.htm](http://www.foei.org/trade/activistguide/danish.htm)

<sup>14</sup> C 2/90 Commission v. Belgium 09.07.1992

European Court of Justice justified this decision by referring to Article 130r (2) of the EC Treaty which requires that pollution should be rectified at source.

By giving waste a special status, the Court was able to avoid the otherwise logical conclusion that a ban on export of waste was contrary to the free movement principles set down in the Treaty.

On the other hand the decision of the Court had another meaning: Every local authority shall accept measures for organizing the collection, processing and disposal of waste. As the waste must be disposed at the closest place to its source and the transport of waste must be limited as much as possible as well.

## **2. The Situation of Environmental Policies at the Global Level**

The European Community Environmental Policy can not be evaluated separately from the international developments on environmental issues because these developments had a significant impact on the shaping of the EU environmental policy due to the trans-boundary character of pollution and as a response, the need for common action.

The international environmental problems have become important issues in 1970s. In order to deal with these problems, the international community has adopted numerous international agreements and some countries have legislated a variety of laws and regulations.

### **2.1. Brundtland Commission and Sustainable Development**

In the 1980's, increasing concern about the effects of economic development on health, natural resources and the environment led the United Nations to publish the Brundtland Report. This report, also known as "Our Common Future", alerted the world to the urgency of making progress towards economic development that could be sustained without exhausting natural resources or harming the environment. The report of 1987, published by World Commission on Environment and Development (the Brundtland Commission) has provided a key statement on sustainable development, defining it as:

"Development that meets the needs of the present without compromising the ability of future generations to meet their own needs."<sup>15</sup>

The Brundtland Report was primarily concerned with securing a global equity, redistributing resources towards poorer nations while encouraging their economic growth.

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<sup>15</sup> Report of the World Commission on Environment and Development, 1987

The report also suggested that equity, growth and environmental maintenance are simultaneously possible and that each country is capable of achieving its full economic potential while at the same time enhancing its resource base. The report also recognized that achieving this equity and sustainable growth would require technological and social change.

The report highlighted three fundamental components to sustainable development: environmental protection, economic growth and social equity.

Sustainable development encourages the conservation and preservation of natural resources and of the environment, and the management of energy, waste and transportation. It is development based on patterns of production and consumption that can be pursued into the future without degrading the human or natural environment. It involves the equitable sharing of the benefits of economic activity across all sections of society, to enhance the well being of humans, protect health and ease poverty.

## **2.2. The First UN Earth Summit**

Five years on from the Brundtland Report, the UN General Assembly asked for a report on progress made towards sustainable development and held the Rio Earth Summit<sup>16</sup>. Taking place over 12 days in June 1992 in Rio de Janeiro, Brazil, UN Earth Summit (United Nations Conference on Environment and Development) was the largest environmental conference ever held, attracting over 30 000 people including more than 100 heads of states.<sup>17</sup> The objectives of the conference were to build upon the hopes and achievements of the Brundtland Report, in order to respond to pressing global environmental problems and to agree major treaties on biodiversity, climate change and forest management.

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<sup>16</sup> <http://www.unep.org/Documents/Default.asp?DocumentID=78&ArticleID=1163>

<sup>17</sup> [www.doc.mmu.ac.uk](http://www.doc.mmu.ac.uk)



The biggest challenges faced at the Rio Earth Summit involved finance, consumption rates and population growth. The developed nations demanded environmental sustainability while the developing nations argued that they should be given the chance to catch up socially and economically with the developed world.

The concept of sustainable development at this summit moved away from a model of development that was almost exclusively based on economic growth and pointed out the need to integrate fully environmental protection and the sound management of natural resources into all economic and social activity. The Summit did not stop at simply defining concepts. Agenda 21, the main outcome from the conference, set out a general strategy for sustainable development to be implemented by different actors at international, national, regional and local level.

Five separate agreements were made at the Rio Summit. These included:

- The Convention on Biological Diversity;
- The Framework Convention on Climate change;
- Principles of Forest Management;
- The Rio Declaration on Environment and Development;
- Agenda 21.

### **2.3. Agenda 21**

Agenda 21, established at the 1992 UN Conference on Environment and Development in Rio de Janeiro is the blueprint for sustainability in the 21<sup>st</sup> century. Agenda 21 is a commitment to sustainable development. Nations that have pledged to take part in Agenda 21 are monitored by the International Commission on Sustainable Development, and are encouraged to promote Agenda 21 at the local and regional levels within their own

countries. Agenda 21 addresses the development of societies and economies by focusing on the conservation and preservation of our environments and natural resources.

Agenda 21 is a blueprint on how to make development socially, economically and environmentally sustainable in the 21<sup>st</sup> century. Governments, non-governmental organizations, industry and the general public are all encouraged to become involved. Agenda 21 provides a framework for tackling today's social and environmental problems, including air pollution, deforestation, biodiversity loss, health, overpopulation, poverty, energy, consumption, waste production and transport issues.

The European Union's Fifth Environmental Action Program (1993-2000)<sup>18</sup> "Towards Sustainability" was the Community's response to Agenda 21 and constituted the Community's first commitment to sustainable development.

In June 1997, United Nations Earth Summit II is held in New York. The EU demonstrated its commitment to sustainable development at the New York Summit.

In June 1998, Aarhus Convention<sup>19</sup> is signed by 39 countries and EC in Aarhus, Denmark. This Convention is a new framework agreement. It combines environmental rights and human rights. The Convention has 3 dimensions: access to information, public participation, and availability of justice. The three dimensions are interlinked. There can be only three reasons for a refusal of access to information: either the public authorities not to have this information or the request is either generally formulated or has no reason, or the request is about a issue which is not completed yet. The public authorities can refuse the access to information on grounds of confidentiality. Any refusal should include the reasoning and the procedures to be applied in order to reach to that information. Public authorities must update the information.

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<sup>18</sup> OJ C 138, 17.5.1993, See European Community Environmental Action Programmes

<sup>19</sup> <http://europa.eu.int/comm/environment/aarhus/>

### **3. EU Institutions and Bodies Responsible of Common Environmental Policy**

The roles of the European Union institutions in the decision making procedure are defined by the Treaty of Rome. To initiate the procedure is under the competence of the European Commission. The final decision comes out from the European Council. The roles of the European Parliament and Economic and Social Committee are mostly consultative although they are strengthened by Maastricht Treaty.

Although these institutions are directly involved in decision making procedure, in each of these institutions there are bodies that are specifically dealing with environmental policy and environmental issues. This chapter will focus on the establishment and the tasks of these bodies.

#### **3.1. Environment Directorate General:**

In 1972 Paris Summit when the heads of government demanded European Commission to set up directorate responsible for environmental protection. However this step had already been taken in this direction with the establishment of Environment and Consumer Protection Unit in 1971. Upon the call of the heads of government, this unit turned to Environment and Consumer Protection Service attached to Industrial Policy Directorate General (DG III). However as mentioned by Grant, Matthews and Newell<sup>20</sup>, "In 1981 a reorganization of the Commission in the light of Greek accession resulted in the transfer of

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<sup>20</sup> "The Effectiveness of European Union Environmental Policy" Wyn Grant, Duncan Matthews, Peter Newell, St. Martin's Press, New York 2000 P.1

environmental responsibilities from DG III to a reformulated DG XI", Directorate General for Environment, Nuclear Safety & Civil Protection.

This Directorate General is given the responsibility for preparing and implementing the Community environmental laws and policies. With the foundation of this Directorate General, during 1980's, significant steps have been done as regards environment while the action plans went on. However there was not a separate environment portfolio for a commissioner until the appointment of Carlo Ripa de Meana in 1989.

Although the Directorate General can be considered successful in terms of policy making, according to Grant, Matthews and Newell<sup>21</sup> "part of the standard analysis of the environment Directorate is that it has been a relatively weak directorate – general relative to others in the Commission." Grant, Matthews and Newell<sup>22</sup>'s claim is based on several arguments such as that "the environment directorate has been affected by its comparatively late arrival on the political scene." Another argument is based on the number of staff employed in this DG. According to their study, DG XI had the smallest number of staff per unit of any directorate – general given the fact that the unit is the basic organisational level of the Commission at which the real work of drafting and monitoring is undertaken. One important argument in their study is that they claim that the reactions from other directorates –general to DG XI is the most serious problem the DG faces.

### **3.2.The European Parliament Committee on the Environment, Public Health and Consumer Protection**

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<sup>21</sup> "The Effectiveness of European Union Environmental Policy" Wyn Grant, Duncan Matthews, Peter Newell, St. Martin's Press, New York 2000 P.1

<sup>22</sup> "The Effectiveness of European Union Environmental Policy" Wyn Grant, Duncan Matthews, Peter Newell, St. Martin's Press, New York 2000 P.10

The Parliamentary Committee on the Environment, Public Health and Consumer Protection analyses and debates proposals for legislation made by the European Commission and makes recommendations on them to the full Parliament in its plenary session. It also drafts its own initiative reports for submission to Parliament and has the power to question the Commission and its representatives.

Procedurally, the committee is heavily involved in conciliation, a process involving joint meetings with representatives of the Council of Ministers. The so-called "conciliation committee" is set up to negotiate compromise legislative texts in areas covered by the co-decision procedure (where the Parliament and the Council are joint decision makers) on which there is a disagreement between the two bodies.

As regards the environment, topics considered by the committee in recent years include climate change, pollution from road vehicles, the water framework directive etc.

The European Parliament and Environment Committee is generally seen as an institution that is concerned to actively promote an effective European environmental policy. However according to Grant, Matthews and Newell<sup>23</sup> the Parliament does not necessarily follow the advice of the Committee. They claim that the "greening" effect of the Parliament can not be relied upon because the Parliament can be unpredictable due to its involvement in an inter-institutional struggle for power and may sometimes give priority over policy concerns.

### **3.3. European Environmental Agency:**

In 1990 the Regulation 1210/90/EEC has been adopted by EC. This Regulation has set up European Environmental Agency (EEA) however it started its activities in November

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<sup>23</sup> "The Effectiveness of European Union Environmental Policy" Wyn Grant, Duncan Matthews, Peter Newell, St. Martin's Press, New York 2000 P.20

1994 although it was not fully operational until 1996. The mission of EEA is “to deliver timely, targeted, relevant and reliable information to the policy – making agents and the public to support the development and implementation of environmental policies in the Community and in the Member States.”<sup>24</sup> In order to achieve its objectives, the Agency today makes use of the capacities of the European Environment Information and Observation Network (EIONET), a network of 600 environmental bodies and institutions active in member countries.

The Agency members are 15 EU Member States and EFTA countries. EEA is a reference centre and carries out work in three main areas: networking, monitoring and reporting. Through these areas of activity the EEA aims to support European policy action.

Its goal is “to be an independent source of environmental source of information, efficient and demand driven”<sup>25</sup>. In general, EEA does not seek to create more data but to make more effective use of existing data by cumulating it and standardising.

Although its mission would appear to be a technical one, according to Grant, Matthews and Newell<sup>26</sup> there are some reasons why it could become a more politicised body. Grant, Matthews and Newell argues first of all that scientific information is seen to embody evaluative judgements rather than regarded as an objective statement of reality. Secondly they claim that there is the risk of conflicts with DG XI. Third claim of the authors is that although Member States have sought to ensure that the flow of information to the EEA comes from official sources, “non-governmental organisations could use the reports published by the EEA as a basis of policy demands”<sup>27</sup>.

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<sup>24</sup> 1997 Work Programme

<sup>25</sup> 1997 Work Programme

<sup>26</sup> “The Effectiveness of European Union Environmental Policy” Wyn Grant, Duncan Matthews, Peter Newell, St. Martin’s Press, New York 2000 P.18

<sup>27</sup> <sup>27</sup> “The Effectiveness of European Union Environmental Policy” Wyn Grant, Duncan Matthews, Peter Newell, St. Martin’s Press, New York 2000 P.19

Unfortunately the activities of EEA are limited by the resources available to it, however there have been suggestions to extent its powers as well.

## 4. Objectives and Basic Principles of EU Common Environmental Policy

Generally, the main objectives of environmental policies are:

- Guaranteeing an environment in which people can live healthy.
- Protecting air, water, soil, plants and animals from the dangerous consequences of human activities,
- Eliminating dangers and damages caused by human activities.

Environmental policy is not the only policy area having these objectives. Other policy areas such as law, economy, demography, construction, industry may serve to the same policy objectives by using similar instruments. These objectives are:

- Protecting eco-systems in their integrity,
- Protecting natural resources such as air, water and soil.
- Protecting wild animals and plant species.
- Protecting from dangerous climate changes.

An ideal environmental law, should not protect the eco-systems, animal and plant species, only for the well – being of the society but should accept each of them as a target. This is called eco-centric environmental policy and it is the opposite of anthrop-centric policy.

The objectives of European Union Common Environmental Policy are defined at the Article 174 (1) of EC Treaty. These are:

- “ - Preserving, protecting and improving the quality of environment,
- Protecting human health,



- Prudent and rational utilisation of natural resources;
- Promoting measures at international level to deal with regional or worldwide environmental problems.”

As mentioned before, the term “environment” was not clearly defined in the Treaty. Consequently, the measures to improve the environment do not constitute the direct objectives of EU Common Environmental Policy but the indirect measures are included among these objectives.

The European Commission can act in cooperation with third countries and related competent international organisations based on the last objective written in the Treaty. Today, the Community is a party to more than 30 convention and agreement on environment. It also participated having full competence to the work of UN Sustainable Development Commission, which was founded as the responsible body after 1992, UN Earth Summit (United Nations Conference on Environment and Development) in Rio de Janeiro.

The environmental legislation of the Community is based on several principles built upon agreements and the action programs designed to protect the environment. Especially Article 174 (2) of Treaty on European Community, provides the principles, which will serve as a guide to interpret the future legislation. The principles of EU environmental policy are also clearly stated in the first action programme. These principles have to be integrated to Member States’ concrete liabilities and they will serve as basis for EU Common Environmental Policy. They are the guiding principles for all decision makers:

- ***Integration:***

The integration of environmental protection to EU’s policies is one of the basis on which the Community will build its activities. Although it was first used in Single European Act, Article 6 of EC Treaty demonstrated the need of integrating

environmental protection requirements in to Community policies and activities in order to support sustainable development in a more specific way. This principle has also been used as a rule in Fifth Environmental Programme.

This principle is unique to European Union law. As mentioned above, while the other policy rules are defined and implemented, the environmental protection requirements should be taken into consideration. Since the beginning of the European integration, two main policies are affected by this principle: free circulation of goods and competition policy.

**- High Level Protection:**

This principle is binding on all legislative bodies of European Community namely European Commission, European Parliament and Council. These bodies have to aim high-level protection while taking into account the specific conditions of different regions of the Community. This principle is one of the most important principles of Common Environmental Policy and Article 2 of EC Treaty sets it up:

“The Community shall have as its task, by establishing a common market and an economic and monetary union and by implementing common policies or activities referred to in Articles 3 and 4, to promote throughout the Community a harmonious, balanced and sustainable development of economic activities, a high level of employment and of social protection, equality between men and women, sustainable and non-inflationary growth, a high degree of competitiveness and convergence of economic performance, *a high level of protection and improvement of the quality of the environment*, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States.”

**- Precautionary Principle:**

This principle does not aim to combat the hazardous effects of an event but to prevent the reasons before it appears.

One can say that there are two functions of the precautionary principle. First of all, the principle has to serve to the creation of a security sphere in front of the risk resources. Secondly it has to create and protect zones where human can act freely. This results in the transfer of burden of proof to the polluter. Once it is accepted, then the polluting activity or the activity owner has to prove that the activity does not have a risk to harm environment. The activity owner will be allowed to have authorization from the authorities once he/she proves the above mentioned situation. That is why this principle is important especially for investment projects and legal arrangements. Precautionary principle has to be kept in mind at the planning stage of an investment.

This principle, for the first time was included in Maastricht Treaty. It means, if there is serious doubt that a certain activity may cause harmful or hazardous affect on environment, without having need to wait until the scientific prove appears, precautions can be taken. The Communication of the Commission on the principles relating the implementation of precautionary principle states that the Commission has the competence to set up levels for protection on the environment, human, animal and plant, when it considers necessary.<sup>28</sup> While preparing the legislation, the Commission has to take into consideration the existing scientific and technical information.

- ***Preventive Action:***

This principle is a result of an approach which prefers to prevent the harm instead of eliminating it. It is described as "Protection is better than cure". Since it allows precautions to be taken at an early stage, its importance increased significantly.

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<sup>28</sup> COM (2000) 1 Final, Brussels 2.2.2000

Although it sounds similar to precautionary principle because both of them depend on the idea of protection, there is a significant difference: preventive action can be realized when there is a concrete risk. When the risk is not real but depend on scientific uncertainty, there appears the precautionary principle.

Although it was first mentioned in the First Environment Programme, this principle is added into treaties by Single European Act. It underlines the importance to take necessary precautions at an early stage before the injury appears. In order to apply these principles some conditions should be complied:

- The information and knowledge to be available to all decision makers,
- The appropriate facts to be evaluated at an early stage of the decision making,
- Monitoring the implementation of Community measures by the Member States.

***- Environmental damage should as a priority be rectified at source:***

This principle appeared at the Third Environment Action Programme and then it was stated in Single European Act.

The Community Environmental Policy is based on the principle of prevention of environmental damage at the origin. It supports environment friendly technologies and goods because they help to decrease the damages of environment problems at an early stage.

The Community legislation applies this principle especially on water and waste management sectors in which the emission standards are more important than

the environmental quality criteria. The Wallonian Waste Case can be given as an example here. As it was explained in previous chapters European Court of Justice although considered waste as goods that should be in free movement, due to its “special character” the Court stated that the waste should be rectified at source or the closest place possible.

- *Polluter pays principle :*

This principle imposes the additional cost or the liability of environmental protection to the polluter which means to the person or institution that harms the environment. It concretizes in legal arrangements about the liability. But there is an important limit on the implementation of this principle which is when it can not be concretized, it remains in theory.

Sevim Budak when quoting Nükhet Turgut<sup>29</sup> says that this principle was used on the 26<sup>th</sup> of May 1972 by OECD in a Council Recommendation and it was explained by decisions taken in other meetings. According to Budak, OECD’s definition, imposes the burden of cost of pollution control and prevention measures to the polluter.

This principle is the cornerstone of the Community Environmental Policy and was stated in the first Community Action Program. The polluters pay the cost of the combat against pollution they cause. This encourages them to reduce the pollution and to invent less pollutant products and technologies. This principle can be applied by setting environmental standards, which the polluters have to comply with.

## **5. Policy Instruments of Environmental Protection**

European Union Member States defined two activity areas in order to reduce environment pollution in short term. One of them is less polluting products and cleaner production systems. The second one is reflection of the cost of pollution to the responsible ones. Both of them require different policy instruments. While the first one requires legal instruments, the second one requires economic instruments such as financial sanctions.

In this chapter the legal instruments are grouped under the horizontal issues subtitle where as the economic instruments constitute another subtitle.

### **5.1. Horizontal Issues**

The Fifth Environmental Action Program set out a wide range of policy instruments to promote environmental protection. Amongst these are several horizontal initiatives, which have an impact across various sectors of environmental policy. The most important ones of these instruments are reviewed below.

#### **5.1.1. Integrated Product Policy (IPP)**

Over the last few years the EU has begun to attach greater importance to environmental damage associated with the manufacture, distribution, use and disposal of products or services. Environmental policy must concentrate on developing and implementing an “integrated” approach that deals with the entire life cycle of products. Traditionally, environmental policy has focused on very specific environmental impacts of industrial activities and this new approach seems to provide a way of avoiding the shift of

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<sup>29</sup> “Avrupa Birliđi ve Türk Çevre Politikası Avrupa Topluluđu’nun Çevre Politikası ve Türkiye’nin Uyum

potential environmental damage from one stage of a product cycle to another. This is the so-called Integrated Product Policy, which aims at continuous improvement in the environmental performance of products and services within a life-cycle context.

The definition of IPP, is “an environmental policy designed to constantly improve the environmental characteristics of products and services throughout the life cycle”<sup>30</sup>.

The following specific policy measures are being developed<sup>31</sup> in the following areas:

- managing wastes;
- green product innovation;
- creating markets;
- environmental communication;
- allocating responsibility.

The following broad measures are considered in IPP:

- lower consumption;
- gradual lowering of harmful substances;
- a temporary discussion forum or sector panels;
- appropriate mix of voluntary or binding agreements;
- incentives to promote product management, eco efficiency, eco design;
- training, awareness, consumer information;
- life cycle, chain effects and cooperation with suppliers.

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Sorunu” Dr. Sevim Budak, BÜKE Yayınları, İstanbul, Aralık 2000, P.33

<sup>30</sup> <http://europa.eu.int/comm/environment/ipp/integratedpp.htm>

<sup>31</sup> <http://europa.eu.int/comm/environment/ipp/2001developments.htm>

This policy approach does not necessarily lead to additional regulatory measures, but is meant to be an intelligent integration of instruments and measures taking into account existing provisions.

### **5.1.2. Environmental Standards**

Environmental standards cover a wide range of applications and are to some extent used by industry. They have played a traditional role in the technical implementation of EU legislation, where they refer to standard procedures. However, a significant development has been the creation of standards describing environmental systems. These standards are intended to provide a common framework for managing environmental issues and to deliver broad based improvement in environmental management and performance worldwide.

The development of system standards has been led by the International Standards Organization (ISO)<sup>32</sup>. Made up of national standards institutes all over the world, ISO develops voluntary technical standards, which help harmonize standards at international level. ISO only develops those standards, which are required by the market. The system standards for the environment are contained in the ISO 14000<sup>33</sup> series, which is developed under the direction of ISO Technical Committee 207<sup>34</sup>. The standards address the following aspects of environmental management<sup>35</sup>:

- Environmental Management Systems (EMS) and Technical Report;

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<sup>32</sup> <http://www.iso.ch/iso/en/ISOOnline.frontpage>

<sup>33</sup> <http://www.iso.ch/iso/en/iso9000-14000/iso14000/iso14000index.html>

<sup>34</sup> <http://www.iso.ch/iso/en/stdsdevelopment/tc/tclist/TechnicalCommitteeDetailPage.TechnicalCommitteeDetail?COMMID=4594>

<sup>35</sup> <http://www.iso14000.com/>



- Environmental Auditing and Related Investigations (EA & RI);
- Environmental Labels and Declaration (EL) and Technical Report;
- Environmental Performance Evaluation (EPE) and Technical Report;
- Life Cycle Assessment (LCA) and Technical Report;
- Terms and Definitions (T&D);
- Environmental Aspects in Product Standards.

In the EU, approval and distribution of standards are under the responsibility of the European Standards Organization (CEN)<sup>36</sup>. CEN uses a procedure called “Vienna Agreement”, whereby ISO standards can go through a parallel public enquiry and formal vote and be adopted as European (EN) standards. This procedure has been followed by CEN for all of the above listed ISO standards.

However, CEN also plays an important role in setting technical specifications for products and processes. In the same way that safety aspects are already incorporated into the standards (therefore, a product certified according to a specific standard is not only suitable for use, but also safe for its user), it should also be possible to incorporate environmental aspects. Today, the idea of “suitable for use” and “safe” is associated with a product that fulfils a European standard. The aim of incorporating environmental aspects in standards is to have the same product standard indicate the “environmental friendliness” of a product.

The Commission gives CEN mandate to develop technical standards to define composition or measurement of emissions etc.

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<sup>36</sup> <http://www.cenorm.be/>

CEN also provides guidance on incorporating environmental aspects in product standards. CEN has set up a Strategic Advisory Body on the Environment (SABE) to guide the CEN Technical Board on environmental issues. Also in 1994, CEN created a working group on Environmental Aspects in Product Standards (ENAPS). Since 1999, an Environmental Helpdesk has been operational in the CEN System to support Technical Committees in their task of incorporating environmental aspects in product standards.

### **5.1.3. Eco-Management & Audit Scheme (EMAS)**

The eco-management and audit scheme (EMAS) is a move towards a self-reporting / public information policy. It is an example of a broader mix of instruments planned to address environmental issues, introduced within the EU in the Fifth Environmental Action Program. It aims to promote the use of environmental management systems and auditing as a tool for systematic and periodic evaluation of the environmental performance of industrial companies operating in the EU.

Set up by Council Regulation 1836/93/EEC<sup>37</sup> EMAS came into force on April 13, 1995.<sup>38</sup> The Regulation restricts participation in EMAS<sup>39</sup> to industrial sites located in the Member States in the European Economic Area. The scheme promotes the adoption of an environmental management system (EMS) and to register, a site must demonstrate conformity to the requirements with an accredited environmental verifier that each Member State identifies. The Regulation established a committee to assist the Commission with the development of the scheme. EMAS was limited to sites whereas the ISO was also available

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<sup>37</sup> OJ L 168 July 10, 1993

<sup>38</sup> <http://www.emas.org.uk/regulation/mainframe.htm>

<sup>39</sup> [http://europa.eu.int/comm/environment/emas/index\\_en.htm](http://europa.eu.int/comm/environment/emas/index_en.htm)

to organizations. The core requirements of EMAS state that a site must demonstrate the following:

- an environmental policy, with a commitment to legal compliance;
- continuous improvement of environmental performance;
- a review of the site to assess the environmental impact of their activities and their environmental performance;
- an action program based on the review and environmental management system complying with the detailed requirements of the Regulation;
- a periodic environmental audit;
- a set of goals based on the audit results;
- an environmental statement for the public that includes categories of data and information as detailed in the Regulation;
- the statement validated by an independent environmental verifier accredited with the competencies required to assess the environmental effects of the site.

In 1997 the review process of the Regulation has started and the amendments made are about the following:

- the scheme is open to any organization sited in the EEA. Activities registered must be within Member State boundaries;
- the scheme must be promoted through the use of the EMAS logo by registered organizations;

- public reporting is a key component and is used to demonstrate the continuous improvement to stakeholders. Selected parts of the public statement can be used to address specific stakeholders interests. The logo can be used to make sure the selected information has been verified. The logo may not be used on products or their packaging;
- significant indirect environmental aspects that the organization can influence are as important as direct aspects.

#### **5.1.4. Ecological Labelling**

Council Regulation 880/92/EEC<sup>40</sup> on a EU award scheme for an eco-label set up a voluntary award scheme for products meeting ecological criteria established by the Commission and Member States. The intention behind the scheme is to inform consumers of the environmental qualities of a product and to promote more sustainable consumption patterns by enabling consumers to make informed choices. Sustainable consumption goals will be promoted as a result of consumers preferring these labelled products. This is assumed to drive environmental improvement by increasing the market share of “environmental friendly” products and by encouraging producers of non-qualifying products to meet the criteria. Continuous improvement will also be driven by re-assessing and where appropriate, strengthening product criteria every three years.

The Regulation operates as follows: ecological criteria are established on the basis of consultation, organized by the Commission, with relevant interest groups, including industry, commerce, consumer and ecological organizations. A committee of Member States, chaired by a Commission representative, gives the final approval to the criteria. The label is given

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<sup>40</sup> OJL 99, 23.03.1992

only to those products, which meet the general and specific criteria established in each product category. Once the criteria are established, the national accreditation bodies in each Member State evaluates individual applications for a label and conclude contracts with successful applicants. There is also a cost for the eco label.<sup>41</sup>

By the end of 1999, criteria for 15 label categories had been identified. The Commission decided to revise the Regulation and according to the new approach, existing national label schemes will be maintained but there will be better coordination between these and the Community-wide scheme.

#### **5.1.5. Civil Liability for Environmental Damage**

The European Commission in 1997 began to work on liability for environmental damage. This followed a long history of searching for an approach to an environmental liability regime. Meanwhile in 1993, the Council of Europe produced the Lugano Convention<sup>42</sup> on civil liability for damage resulting from activities dangerous to the environment. This convention provides for strict, joint and several liability with no limit on damages, retroactive liability and access to justice for individuals or non-governmental organizations. On the other hand, a white paper was published on February 2000<sup>43</sup>. The document argues the need for Community action.

#### **5.1.6. Voluntary Agreements**

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<sup>41</sup> Decision 93/326/EEC defining guidelines for setting the costs and fees connected with the eco-label. OJ L 129, May 27, 1993)

<sup>42</sup>

<http://www.jus.uio.no/lm/ec.efta.jurisdiction.enforcement.judgements.civil.commercial.matters.lugano.convention.1988/doc.html>

<sup>43</sup> [http://europa.eu.int/comm/environment/liability/white\\_paper.htm](http://europa.eu.int/comm/environment/liability/white_paper.htm)

The Fifth Environmental Program encourages the use of a wider range of policy instruments to promote environmental protection. As one of these instruments, voluntary agreements can offer efficient means of achieving specified environmental objectives.

Environmental voluntary agreements are concluded between industry, on the one hand and public authorities on the other. They can be declarations of intent or undertakings, as well as agreements formally concluded with government agencies. They can also take the form of unilateral commitments on the part of industry recognized by public authorities. Voluntary agreement can be legally binding on all the parties to the agreement, but so far, they have been mainly non-binding.

## **5.2. Economic Instruments**

Using economic instruments to achieve environmental goals has been discussed at EU level in various contexts for over a decade as an alternative to traditional "command and control" techniques. Despite numerous attempts by the European Parliament and the Commission to make an EU-wide carbon-energy tax a reality, some Member States have always resisted such action at EU level because they see tax issues as a domestic right. However while EU-wide measures have not emerged, a number of legislative initiatives contain provisions encouraging national or local governments to make use of fiscal measures to accelerate the achievement of the environmental objectives of the legislation on their own territory. In practice, use of such measures may run the potential risk of distorting competition in the single market.

The widely accepted OECD definition of economic instruments is that they are "instruments that affect costs and benefits of alternative actions open to economic agents,

with the effect of influencing behaviour in a way which is favourable to the environment". In other words, affecting the costs in such a way as to:

- to promote the use of processes and products which are less damaging to the environment;
- to promote the reduced use of existing products or processes which are considered damaging for the environment.

This might include increasing financial burdens on polluters or offering them financial incentives to change their ways. A broader view of economic instruments also includes non-monetary instruments such as negotiated or voluntary agreements, labelling schemes etc. as mentioned above. Fiscal instruments of environmental policy use the tax system to influence the behaviour of economic agents in a way that is intended to be favourable to the environment. They can be regarded as falling within the definition of economic instruments. In practice, the following types of instruments are in use: charges and taxes or tax differentiations; subsidies and other financial incentives made available to companies; marketable permits; deposit/refund systems.

At EU level, fiscal and tax measures can only be adopted by a unanimous vote in the Council of Ministers. However, no EU-wide fiscal measures have been adopted to promote environmental policy aims.

In February 1997, the Commission issued a Communication to Member States regarding the use of levies in environmental policy.<sup>44</sup> The Commission's analysis suggest to many business observes that Member States may have a relatively free hand under EU law to impose such levies, possibly even to harm of single market measures.<sup>45</sup>

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<sup>44</sup> COM (97) 9 January 29, 1997

<sup>45</sup> Danish Bottle Case

## 6. National Environmental Affairs

Environmental problems do not respect national borders. Therefore, efforts to protect the environment at the national level must be complemented by those at international, including European level. Consequently, there is a growing interplay between environmental programs at a variety of policy levels. There are numerous examples of the internalisation of global initiatives at the European level (e.g. climate change etc) but EU policies can also affect global developments (e.g. genetically modified organisms etc). Moreover, national environmental affairs, in the EU Member States and in other countries, can strongly influence the development of environmental policies beyond their borders.

This increasing number of legislative and non-legislative initiatives aimed at improving the state of the environment, is dependent on a multiplicity of administrative strata for their proper implementation and in the case of former, enforcement. These may include supranational, national, regional and/or local levels of government and judicial and law enforcement bodies and agencies. The EU's institutions actively monitor the state of the environment in the Member States and their implementation of environmental legislation. Although there have been improvements in the recent years in the successful transposition of directives into national law, there is limited evidence that Member States' enforcement of EU law, while difficult to measure with any great correctness, has followed suit. Indeed data included in the European Environment Agency's 1999 report on "Environment in the European Union at the turn of the century"<sup>46</sup> indicates that actual environmental performance in the EU continues to decline. The European Commission's "Third Annual Survey on the implementation and Enforcement of Community Environmental Law – January 2000 to

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<sup>46</sup> <http://reports.eea.eu.int/92-9157-202-0/en>



December 2001” also indicates that the Commission brought 71 cases against Member States before the Court of Justice and delivered 197 reasoned opinion on the basis of either Article 226 or 228 of the EC Treaty. This marks an increase of approximately 40% compared to the corresponding figures of the previous year. The Commission brought 39 cases against Member States before the Court of Justice and delivered 122 reasoned opinions or supplementary reasoned opinions during 2000. On the other hand, the number of complaints continued to rise in 2001 following the trend already apparent in previous years. (1996: 161, 1997:242,1998: 432, 1999: 453, 2000; 543, 2001: 587)<sup>47</sup>

In order to avoid this negative trend, EU’s Sixth Environmental Action Program focuses more on the control aspects of “command and control” than the Fifth Environmental Action Program. This includes regular publication of “name and shame” lists.

Significantly, for the environment field, enlargement of the EU will further widen the disparities between Member States in terms of environmental programs and performance in sticking to EU standards.

This chapter profiles each of the EU Member States with the aim of presenting a brief overview of the main environmental policies in each country based on the Commission’s annual reports on the monitoring and implementation of Community law. However, the chapter will be excluding the new Member States and candidate countries due to the lack in proper data on every field from the countries concerned.

Among the Member States Germany, Holland and Denmark have had the major influence on shaping the European Union’s Environmental Policy. Great Britain had generally been the slowing down factor in decision making. The Member States about the environmental policy have been symbolized by a convoy; Holland, Denmark and Germany

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on the front, France, Italy, Spain, Belgium, Luxembourg and Ireland in the middle and Great Britain, Greece and Portugal at the back.

Below can be found the main characteristics of the national environmental policies which may also give an idea on the position of Member States during the decision making on the environmental policy.

## **6.1. Member States**

### **6.1.1. Austria**

Since the mid 1980s, Austria has been very successful in preventing and controlling traditional pollution: pollutant emissions from industry and power generation have been reduced dramatically and the same applies to the discharge of water from industry and households. To a large extent these achievements have been reached by using regulations requiring best available technology (BAT)<sup>48</sup>. This approach was supported by considerable subsidies to industry and municipalities, which in turn had to meet rather strict standards, set by the legislator.

To achieve further progress in environmental protection, in the early 1990s a new approach was developed. After consultation with the related parties, the government issued the National Environmental Plan (NUP) in 1995. Its main focus is on how to integrate environmental issues into all relevant areas of political and economic decision-making. New instruments of environmental policy and changes in the relevant administrative and economic structures have been advocated. After becoming a fully integrated member of the EU in 1995, Austrian environmental policy has focused on the following issues:

- Climate Policy;

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<sup>47</sup> "Third Annual Survey on the Implementation and Enforcement of Community Environmental Law January 2000 to December 2001" Office for Official Publications of the European Communities, Luxembourg, 2002

- Ground Level Ozone;
- Waste Water Collection and Old Landfills Recovery;
- Transport;
- Industry (mainly air pollution);
- Nuclear energy;
- Biotechnology.

### 6.1.2. Belgium

A cooperation agreement from April 1995 regulates the division of competence in the environmental field between the federal and the regional levels. The federal government defined its political priorities in July 1999 with a declaration titled "the path to the twenty-first century". Environmental issues are dealt with according to three thematic approaches: an integrated mobility policy, a sustainable development policy and energy and the electricity market. The sustainable development policy covers:

- the adaptation of product standards to agricultural products;
- greening of taxation;
- improvement of information on products;
- improvement of regulation on hazardous substances;
- better control on the transit of waste;
- greening of government.

The priority areas for Belgium are:

- marine environmental protection;
- biological diversity ;

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<sup>48</sup> BAT refers to best available technology.

- protection of atmosphere (including climate change).

### 6.1.3. Denmark

Denmark is among the Member States which had major influence on European Union's Environmental Policy. Denmark's framework for environmental policy was established with the 1973 Environmental Policy Act. This act has been revised a number of times and more specific acts have been introduced. This framework legislation defines goals and sets up the administrative structure.

On the basis of the 1995 report "Denmark's Nature and Environment Policy", the Danish parliament identified phasing out of hazardous substances, agriculture, transport and energy as priority areas.

Action plans have been adopted in Denmark in many areas. These plans are continuously updated. Danish environmental policy is gradually shifting towards preventative programs and intensified product oriented environmental initiatives. The purpose of the product-oriented approach is to increase the volume of more environmental friendly products, which are developed, produced and sold on the market to replace existing more environmentally damaging products. It involves the whole market chain and this effort includes development of tools for environmental design of products etc.

From 1973 to around 1990 Danish governments lacked an overall strategy as regards EC environmental policy. Instead, a position was taken from draft Directive to draft Directive. Mogens Moe claims that the stance of Denmark from 1973 to about 1988, "everything revolved around preventing the EC from 'damaging our system'; hence the mandate given to negotiators at all levels was that they were to ensure that nothing was

passed that would necessitate any major amendment of Danish Rules”<sup>49</sup>. During the adoption of Treaty of Rome, the Danish government promised that Denmark would always be able to impose stricter rules if the EC should lower the standard. According to Mogens Moe, since then Denmark’s stance has been more offensive and Denmark has strived to influence the decisions by “alluding to the fact that certain solutions have functioned well in practice”.

When the annual surveys of the European Commission on the implementation and enforcement of Community environmental law are observed, it is seen that Denmark is at the forefront with regard to the question of implementation.

#### **6.1.4. Finland**

The main aims of the Finnish environmental administration are to promote sustainable development; further environmental protection and the sustainable use of natural resources; promote diversity and vitality of nature; safeguard the beauty and cultural value of the environment; enhance the human environment and community structure; and attend to the use of management of water resources.

#### **6.1.5. France**

The Ministry of Environment’s mission is “to monitor the quality of the environment, protect nature, reduce, prevent or totally eliminate pollution and other nuisances, and enhance the quality of life.” It pursues these goals along two lines, which emphasize the preservation and protection of nature and promote research and development into methods for improving knowledge and understanding of the environment, while at the same time instilling the economic and social fields with an environmental dynamic. The priority areas

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<sup>49</sup> « Environmental Administration in Denmark », Mogens Moe, Ministry of Environment and Energy, Danish Environmental Protection Agency, Standgade, July 1995

are participation of the public and of associations; prevention of natural disasters; protection and management of natural spaces; and management of waste and pollution prevention.

Based on a law adopted by the Parliament on June 25, 1999, states that any group of local authorities can contract with the state if they have a plan for sustainable development. This law integrates environment into regional planning.

#### **6.1.6. Germany**

Today's awareness of the environment was not always common in Germany. The public awareness started in 1970s because of reports on environmental problems. Over 10 years German public started to put emphasis on the environmental problems and it resulted with the foundation of Federal Ministry for the Environment, Nature Conservation and Nuclear Safety in 1986.

Christine Guist<sup>50</sup> defines the three important principles of German Environmental policy as the prevention principle, the polluter pays principle and cooperation principle. According to Guist, one of the important characteristics of the prevention principle applied in Germany is that "the Government commits itself to intervene if it recognises a danger to nature". Guist also underlines the will of German Government to work together with industry on a voluntary basis rather than by laws and punishment under the cooperation principle.

As a highly industrialized country Germany's first environmental policy priority is the protection of the climate and the ozone layer. Preservation of the ecological balance by air pollution control, water and soil protection, the maintenance of biological diversity and the protection of habitats are also a major concern. With regard to sustainable development, the conservation of resources is becoming increasingly important.

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<sup>50</sup> « Environmental Protection in Germany », Christine Guist, Goethe Institute Web Site, [www.goethe.de](http://www.goethe.de)

In respect of the EC Environmental Policy, Germany is one of the most influential Member States. As being Europe's largest industrial nation, with Holland and Denmark, all three countries impose roughly the same strict environmental requirements.

#### **6.1.7. Greece**

Areas of specific priority for Greece include the following:

- Management of activities in coastal areas where industry, tourism and urban habitation are concentrated;
- Protection of ecosystems, endangered species and marine environment from pollution,
- Combating air pollution in big cities;
- Confrontation and combat of the erosion of agricultural land and deforestation;
- Reduction of toxic waste.

#### **6.1.8. Ireland**

There are five main principles in environmental protection policy of Ireland. These principles are also stated in 1990, in first Environmental Action Program of Ireland. These are the concept of sustainability; the precautionary principle; the integration of environmental considerations into all areas of policy; the polluter pays principle, and the principle of shared responsibility for the environment.

#### **6.1.9. Italy**

Italian environmental policy is essentially based on four different levels. First is planning, which represents Italy's attempt to put together all general programs, guidelines,

and strategic projects for the environment. Secondly specific resources have been set aside especially for the environment. Thirdly major attempts have been made to reinforce environmental legislation at both the national and European level. Finally, in the last few year, Italy has become an active and influential participant in EU environmental activities.

#### **6.1.10. Luxembourg**

Luxembourg currently maintains the same or even exceeds the high environmental standards of its nearby countries, namely, Belgium, Germany and the Netherlands. The government's strategy emphasizes pollution prevention, cooperation among different sectors, transparency and accessibility of environmental information and the preservation of the country's natural richness. The general aims of the environmental policy focus on the following areas:

- association of environmental with economic priorities;
- nature protection and management of natural resources;
- protection, management and treatment of water;
- waste management;
- control of air pollution and greenhouse gases;
- development of an information policy and education with

regard to environmental policies.

#### **6.1.11. The Netherlands**

The Dutch have labelled the environment a high priority issues. The use of pesticides in intensive agriculture and industrial production has caused high emission levels of dangerous substances and other organic compounds, which have polluted groundwater, soil,



ditches and pools. A dense population and increased production and consumption have created waste management problems. It is for these reasons that the Netherlands has produced a highly developed environmental policy.

Regulation and protection of the environment in the Netherlands is under the jurisdiction of Ministry of Housing, Physical Planning, and the Environment. However there are other institutions involved as well, such as the Commission For Environmental Impact Assessment, the Nature Conservation Council etc.

The latest National Environment Policy Plans focuses on nine environmental themes, namely climate change, acidification, toxic and hazardous pollutants, soil contamination, waste disposal, nuisance, ground water depletion and resource dissipation.

Voluntary agreements between industry and government or sometimes organizations is an important characteristic of Dutch Environmental Policy. These agreements in general target to achieve certain environmental goals, such as the reduction of waste.

According to Dutch Meat Board, researches about the Dutch environmental policy indicated that "Dutch industry is one of the trendsetters in the field of environmental measures. The Dutch targets for reducing emissions are higher than those in other countries, and also go beyond what has been internationally agreed. Controls are also more rigorous in the Netherlands." <sup>51</sup>

#### **6.1.12. Portugal**

Two areas of pollution control have been identified as major priorities. Firstly, municipal pollution control which includes the supply of drinking water to urban areas, the safe removal of waste water and solid waste collection, removal and control, secondly,

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<sup>51</sup> «Environmental Guidelines in the Netherlands (updated June 2003) Dutch Meat Board, [www.hollandmeat.nl](http://www.hollandmeat.nl).

industrial pollution control, which includes control of emissions from current operations, site remediation and correcting the effects of past toxic pollution.

#### **6.1.13. Spain**

The overriding priorities for the government and the 17 regions are water management, preservation of nature and biodiversity, and waste management. Another big problem facing Spain is forest fires, especially during the hotter months of the year. Regional authorities are responsible for reforestation, fire prevention and control.

#### **6.1.14. Sweden**

Swedish environmental policy is based on the core concept of sustainable development. All initiatives are based around general principles including the precautionary principle, the substitution principle and the polluter pays principle. Water management, energy saving, efficient energy use, reduction of harmful substances are important areas of policy. As pollution has transboundary effects, ecological conditions in the Baltic States, Northwest Russia and Poland are of primary concern to Sweden.

#### **6.1.15. United Kingdom**

The UK is increasingly focusing on environmental concerns as a key part of a more general sustainable development strategy. Within the overall field of sustainable development, the UK is developing environment strategies in a number of key areas, including most significantly air quality, chemicals and waste and recycling.

UK's environmental policy priorities do not always match the other EU Member States' priorities. For instance UK applies technology motivated standards that include

integrated pollution control methods which are set by Environment Protection Law of 1990. On the other hand, Germany prefers to use BAT (Best Available Technology) in order to reduce or completely prevent pollution emissions.

Besides, according to Budak, UK emphasizes that the European Community should give priority to quality criteria rather than the best available technology. Budak argues that although these criteria are more flexible in respect of local authorities freedom of implementation, they are more open to abuse<sup>52</sup>.

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<sup>52</sup> « Avrupa Birliđi ve Türk Çevre Politikası Avrupa Topluluđu'nun Çevre Politikası ı ve Türkiye'nin Uyum Sorunu », Dr. Sevim Budak, Búke Yayınları, İstanbul, Aralık 2000, P.164.

## 7. Financial Support Mechanisms

As a general principle the polluter should pay the cost for preventing the pollution or to compensate the harm. This principle is valid in the Community since the 1970s. However, for the objective of a cleaner Europe, there is the need for financial support. European Union has spent a lot of effort in order to increase the share of the budget aiming these expenditures.

The conditions for the use of structural funds have been amended in 1988 and environmental problems are included in to the criteria for the use of these funds. Until the adoption of Maastricht Treaty, these funds consisted of European Social Fund, European Agriculture Fund and European Regional Development Fund. After the adoption of the Treaty of the European Union, a new fund named European Cohesion Fund<sup>53</sup> has been added to these financial resources. According to the procedure of this fund, if an environment measure imposes an irrational cost to the public authorities of a Member State, then that state would be able to use the Cohesion Fund. Especially Spain, Portugal, Greece and Ireland were beneficiaries of the Fund in question.

Other than the structural funds, other financial support mechanisms have also been used as instruments. Among these, one of the most important was ENVIREG. This programme was designed in 1989 to support the preservation of most polluted coasts. Between 1990 and 1993, 500 million ECU was spent under this programme to prevent the coastal pollution<sup>54</sup>. A complementary programme to ENVIREG was MEDSPA and it focused more on the Mediterranean region. In 1994 ACE (Action by the Community relating to the

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<sup>53</sup> Regulation No 792/93, OJ L 79, 01.04.1993

<sup>54</sup> "Environmental Policy in the European Community", Office for Official Publication of the European Communities, Luxembourg, 1990.

Environment)<sup>55</sup> started in order to promote clean or less polluting technologies, to protect the nature and to preserve endangered species. Starting from 1984, during nearly 3 years, approximately 13 million ECU<sup>56</sup> was used for projects for the objectives of the programme.

There is also a specific financial instrument for environment (LIFE) that both Member States and Accession countries can benefit even today.

### **7.1. LIFE**

LIFE was launched in 1992. It is one of the most important financial instrument of Community environment policy. It co-finances environmental initiatives in the European Union and certain third countries bordering on the Mediterranean and Baltic Sea and of course in accession countries that have decided to participate in LIFE.

LIFE has been implemented in phases: 400 million Euros were allocated for the first phase (1992 – 1995), approximately 450 million Euros were allocated for the second phase (1996 – 1999), the current phase “LIFE III” (2000 – 2004)<sup>57</sup> has a budget of 640 million Euros.

In the framework of sustainable development, LIFE should contribute to the implementation, development and enhancement of the Community environmental policy and legislation as well as the integration of the environmental policy and legislation as well as the integration of the environment into other EU policies. LIFE should also lead new solutions facing EU environmental problems being explored.

LIFE is the instrument, which should work towards the implementation of Community policy defined by the Sixth Action Programme for the Environment based on a practical approach.

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<sup>55</sup> OJ L 176, 03.07.1984

<sup>56</sup> “EEC Environmental Policy & Britain” Nigel Haig, Longman, Great Britain, 1989 P.360

Life consists of there thematic components: LIFE – Nature, LIFE – Environment and LIFE – Third countries. Under LIFE 2 050 projects were supported from 1992 to 2002.

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<sup>57</sup> Regulation (EC) No 1655/2000 of the European Parliament and of the Council, OJ L 192 of July 28, 2000.

## Conclusion

In today's global economy, government policies and individual or collective practices has a significant and long-lasting influence on the state of the environment, and impact the way in which it is addressed by citizens and organizations. The role of legislation is key to modifying the environmental behaviour and perceptions of society's stakeholders, thus leading to an improvement in environmental performance.

Over the past 30 years, the European Union has developed a comprehensive body of environmental legislation, which has proven innovative and successful in many respects. In 1999, the entry into force of the Amsterdam Treaty accorded most environmental policies a new legal basis, with most now subject to co-decision procedure. Moreover, Amsterdam grants Member States the possibility of maintaining and applying stricter environmental standards than those imposed at EU level. Recently, further efforts have also been made to improve the integration of environmental concerns into other relevant areas of EU policy.

In order to achieve the Union's objective of achieving sustainable development by integrating social progress, economic growth and ecological protection, all stakeholders need to keep a balanced and forward-looking perspective. As with any ongoing regulatory process, the formulation of EU environmental policy has at times been unavoidably piecemeal and has therefore produced a certain lack of stability and coherency among key pieces of legislation. This has resulted in implementation difficulties for regulators, companies and citizens. In some cases, these difficulties have contributed to delaying or even preventing significant environmental improvements. It is one of the priorities of the stakeholders to ensure coherency in future EU environmental policy.

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