

EUROPEAN UNION

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Summary

Since the 1980s, environmentalists have consistently argued for broad international action in the fight against environmental destruction, claiming that environmental issues cannot be contained or handled within national borders. Such issues, it is argued, can only be tackled through the harmonization of environmental attitudes and legislation and through the search for international solutions that extend beyond strictly national priorities and concerns. Given the need for collective action and legislation, the EU has become a prime focus as an initiator of such action. At the same time the EU has also had to confront claims that its actions have been a major contribution towards increasing environmental problems.

The evolution of environmental policy has been a relatively fragmented process, focusing predominantly around the development of Environmental Action Programmes. Since the mid to late 1980s, environmental policy has become more far reaching and has begun to tackle the issue of sustainability within the EU.

While the EU has clearly progressed significantly within the environmental policy field, its view of a sustainable society is largely based upon a pattern of ecological modernization rather than the vision of sustainable development advocated by

environmental theorists, European green parties and environmental pressure groups. There is also a significant level of incoherence regarding the extent to which the concept of sustainability is effectively implemented within EU policy.

1. Introduction

Given the global nature of environmental problems, and the recognition that pollution knows no borders, there is a strong case to suggest that the challenge of sustainability can only be effectively confronted through the harmonization of environmental attitudes and legislation. To achieve this requires international solutions that extend beyond strictly national priorities and concerns. The need for collective action has subsequently led to the European Union (EU) becoming a primary focal point as a potential initiator for action within Europe.

As this article demonstrates, a brief glance at recent environmental policy development within the EU suggests that it has taken to its role as a potential environmental 'guardian' with increasing commitment and enthusiasm. At the Earth Summit in 1992, the European Community (EC) was the only non-governmental signatory. More recently, the introduction of the EU's Fifth Environmental Action Plan (EAP) was initiated as a significant step in the transition towards a more sustainable pattern of development within Europe.

The growth in significance of the EU within the environmental sphere is also evident in the increasing role of Green actors at this level. In recent years the EU has represented an important focal point for the continued development of both environmental non-governmental organizations (NGOs) and European Green parties. Environmental movements have increasingly sought opportunities for consultation and have devoted significant energy to utilizing EU channels to both seeking to influence the shape of European environmental policy and also as a forum for holding national governments to account for environmentally damaging actions and processes. In addition, direct elections to the European Parliament have enabled a number of European Green parties to shape a vociferous green voice within the European Parliament (EP).

However, the image of the EU as 'environmental protector' is not necessarily as clear-cut as these initial comments might suggest. Indeed there is strong evidence for a counter argument which proposes that the very underlying rationale of the EU itself represents a major factor in contributing towards increasing environmental problems within Europe, rather than providing effective solutions. How can the EU deal effectively with environmental problems when arguably the underlying cause of many of these problems has been the pattern of continuous economic growth and industrial development, upon which the EU has itself focused? There is therefore evidence to suggest that the EU may, on the one hand, represent a key factor in the continued expansion of modern environmental problems; while, on the other, it may turn out to be a primary focal point through which to instigate potential environmental solutions.

This article will therefore critically examine the EU's developing relationship with the Green agenda, in an attempt to identify links between the emerging pattern of green politics and the patterns of policy-making within the EU. It examines why and how the

environment has become such a significant part of the EU's activities and assesses the extent to which we are witnessing the 'Greening' of the European Union. Can sustainable policies be effectively instigated given the underlying economic rationale that has arguably been the driving force behind the EU's development so far?

To tackle these questions, this article examines the evolution of an environmental agenda within the EU. It firstly examines the barriers to progress presented by the processes and structures of EU decision making. It then provides an overview of the historical development of environmental policy within the EU and identifies the overriding principles and objectives of the EU's EAP, which have provided the framework for policy development. Focusing more closely upon the emergence of a sustainability agenda, the article focuses in more detail upon the Fifth EAP; identifying its strengths and weaknesses in advancing a process of sustainable development within the EU. The article concludes by assessing the progress made by the EU within the environmental sphere and identifying the future direction of environmental policy at this level.

2. The Challenges of EU policy making

In trying to provide a brief overview of the development of environmental policy, it must be emphasized that the institutions of the EU represent a far from homogeneous body of organizations. As such, Green politics must seek to infiltrate and gain influence through a variety of diverse channels. To illustrate the breadth of the channels available, we employ the template devised by Peterson and Bomberg to understand EU decision-making. This identifies three main types of decision-making rules; history making, policy setting and policy shaping. These templates provide a useful guide to the different roles played by the institutions and their interaction.

'History-making' decisions are the decisions that change the nature of the EU. They alter procedures, rebalance the powers of the institutions, expand the remit of EU, etc. The role played by the European Council in these history-making decisions means that they set the overall policy framework for the EU, but tend to have little impact upon the day-to-day policy decisions taken by the EU. History-making decisions were crucial in the EC getting competence in environmental policy and also to explain the general direction that policy takes. However, these types of decisions tend to focus on the process of European integration. To understand, the 'day-to-day' decision-making process we need to examine how policy is 'set' by institutions and how the policy is 'shaped' by actors within the institutions and others interests.

'Policy-setting' decisions occur at the end of the EU's legislative process. Policies can be said to have been 'set' when directives or other legislative tools are issued. This type of decision making tends to follow the standard community method whereby the Commission proposes, Council of Ministers disposes, and the European Parliament amends. This system often results in the status quo being the most common outcome, leading to the failure to adopt often important policy measures. To understand these decisions therefore, it is essential to look at the bargains reached within and between the institutions. Within the environmental field, it is certainly the case that some institutions and certain sections of the Commission are seen as 'greener' than others. Crucially, these different views on the environment impact upon policy design and implementation.

‘Policy-shaping’ decisions do not decide EU policy; rather they determine policy details or what policy options will be considered. They occur early in the process when policy is being formulated, often before the formal legislative process has begun. This pre-legislative stage is where most lobbying occurs, as once political agreement emerges the process often becomes inflexible. This style of decision making revisits part of the Monnet method, with the Commission trying to forge consensus amongst different actors. The process is open to networks that may work in different ways. For example, the sectorized nature of policy networks may prevent policy change in the agricultural sector, as significant actors wish to preserve the Common Agricultural Policy (CAP). However, in other fields including more general environment policy, the nature of the actors may push EU environmental policy forward.

3. The Historical Transition towards an EU Environmental Policy

The Environmental Policy of the EEC between 1957 and 1972 has often been described as a series of ‘incidental’ measures. There was no explicit mention of the environment in the Treaty of Rome of 1957, although this is not surprising given public opinion at that time. The focus of the EEC then, was primarily to establish a common market and to ensure economic growth. Despite this, expansion of EEC competence did occur regarding environmental issues, mainly through a broad interpretation of Article 2 of the EEC Treaty, which states that the EEC should aim for a ‘harmonious development of economic activities, a continuous and balanced expansion, an increase in stability, an accelerated raising of the standard of living and closer relations between the states belonging to it.’

As the environment was not one of the common policies listed in Article 3, the main legal basis for action were Articles 94 [100] and 308 [235]. Both provided a tentative constitutional foundation for the EC’s actions within the environmental sphere. Article 94 [100] allows for the Council to ‘issue directives for the approximation of such provisions laid down by law, regulation or administrative action in Member States as directly affect the establishment or functioning of the common market.’ Article 308 [235] additionally allows the Council, acting unanimously on a proposal from the Commission, to take appropriate measures ‘necessary to attain, in the course of the operation of the common market, one of the objectives of the Community’ where there is no treaty provision, although this was seen as a last resort. An excellent example of the type of policy adopted during this period was the 1967 directive harmonizing the classification, packaging and labeling of dangerous substances. While this clearly concerned the functioning of the Common Market, it also had a significant environmental impact. It is important to note however, that both Article 94 [100] and 308 [235] need unanimity in the Council, with the European Parliament only having the right to be consulted.

The emergence of environmental policy was therefore based solely on a broad interpretation of the Treaty of Rome, which allowed the Community to pass a number of initial pieces of environmental legislation. However the need for unanimity and the restricted basis for action under Article 94 [100] clearly hampered the development of EEC environmental policy. During this period therefore, environmental policy reflected more of an *ad hoc* pattern of development rather than a coherent policy strategy. These

developments often emerged as measures that sought to abolish obstacles to trade between member states, rather than from any significant environmental commitment on behalf of the Community.

3.1 Initial developments: 1972–1986

The 1972 Stockholm UN Conference on the Human Environment has been identified as a major turning point in the development of EC environment policy. Growing public concern about environmental problems and rising support for Green parties and pressure groups placed the issue high upon the international political agenda.

The UN meeting was influential in focusing the minds of the EU leaders towards the environment. At the same time, the trade implications of newly introduced German environmental legislation played an equally important role. Environmental legislation was also prioritized due to the need to eliminate trade distortions between Member States. Different national legislation on pollution potentially represented a significant barrier towards the creation of a common market.

The response to these developments was an EU Heads of State Summit in Paris, 1972, where the leaders declared that economic expansion should not represent an end in itself, but should ‘result in an improvement in the quality of life as well as in the standard of living ... so that progress may really be put at the service of mankind’.

The Leaders invited the Community institutions to develop an Action Programme on the Environment, which resulted in the First EAP being launched in 1973.

The most important developments came towards the end of this period. The European Court of Justice (ECJ), in a landmark case [C-91 and 92/79], offered support to the Commission by upholding the use of Article 94 [100] as a basis for environmental policy. It held that environmental provisions could be based on this article provided they were linked to the setting up or operation of the internal market. The ECJ also ruled that environmental protection justified certain limitations on the free movement of goods.

The result of this informal integration of environmental concerns was a significant increase in EU environmental legislation. Between 1973 and 1985, 120 directives, 27 decisions and 14 regulations were implemented.

This sudden increase in policy activity resulted in the environment constituting one of the fastest growing areas of EU policy during this period. However, it is important to consider that this dramatic increase can, in part, be explained by the fact that the EEC was starting from an almost non-existent policy base prior to 1973.

The expansion was also aided by the fact that environmental policy was one of few areas where, during a period of stagnation in the development of the European project, agreement was being achieved amongst the member states. In light of this, the expansion of environmental legislation, even if its quality was at times debatable, represented a major step forward.

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Biographical Sketches

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