

# The Environmental Dimension of EU Enlargement

*The forthcoming enlargement of the European Union has given rise to a host of issues concerning its environmental consequences. The contributors to this Forum discuss the impact of enlargement on the environment in Europe as well as the challenges to be met by environmental policy in both the candidate countries and the Union.*

Margareta E. Kulesa\*

## Environmental Effects of EU Enlargement – Short-term Gains and Medium-term Losses?

Environmental motives, of course, were not a driving force behind the applicant countries' efforts to join the European Union. And though environmental objectives may have played a minor role for the member states in inviting thirteen countries to apply for accession, the enlargement process is primarily a foreign and economic policy issue and so are its objectives. Nonetheless, environmental questions did play a vital role on the road to accession and directly affect environmental policies in the applicant countries, mainly for three reasons.

- The Copenhagen Criteria for accession include the adoption of common rules, standards and policies that make up the body of EU law (so-called "Acquis Communautaire"). The environmental acquis is a major part of the whole and covers approximately 300 acts. In principle, all these directives, regulations, decisions and recommendations have to be transposed into the national legislation of the candidates, and be implemented and enforced by the date of accession.
- Any potential for trade distortions or frictions is to be minimised in order to allow the smooth and successful integration of new members into the Common Market. It follows that EU product standards, especially those for tradables, have to be effectively in place. Further, most industries of the current EU members as well as their governments have a high interest in future member states' complying with European production process standards. Otherwise, competitive disadvantages might arise from an un-

even playing-field, leading to employment losses in high standard economies and to investment outflows. Finally, for the same reasons, it is likely to be expected that the environmentally more advanced countries will insist on the fulfilment of all European environmental quality standards, regardless of whether they impose immediate costs on the producers or affect costs, prices and sales indirectly.

- Environmental policies in the future member states will change as the EU increasingly tends to act as one in global environmental negotiations, speaking on behalf of all member states. Consequently, the implications of multilateral environmental agreements for the new members will be different from those that would have followed from commitments negotiated on their own.

After all, it can be assumed that the voices of the environmentally concerned in the legislative and executive bodies as well as from outside did influence the accession diplomacy on both sides of the table. Nuclear safety is one area which shows the independent weight of environmental considerations and the issue of health protection. In general, the prospect of decreasing transboundary pollution helped to win public approval for the enlargement especially within member states directly neighbouring on Central and East European (CEE) countries.

Thus, EU enlargement is not an environmental project but an economic and foreign policy one. All the same, environmental policy in the applicant countries has changed as a direct consequence of the accession process and will continue to do so.

\* Professor of Economics, University of Applied Sciences, Mainz, Germany; member of the German Advisory Council on Global Change.

### Environmental Policy Changes and Short-term Effects

Though in many of the centrally planned economies of Eastern Europe environmental legislation had been relatively strict on paper in several areas, regulations often were not followed in practice. As a consequence, environmental protection in Eastern Europe lagged behind the EU on average. This policy failure, together with rather extreme regional disparities in industrialisation and growth, produced many hot spots nearing devastation levels. The full adoption of the environmental acquis therefore raises, *ceteris paribus*, the level of protection in the applicant states, thus improving environmental quality.<sup>1</sup> This process is supported by environmental projects co-financed by the EU to promote the adoption of the acquis as well as by several environmentally related programmes and networks. An improvement in the environmental situation has already been observable since the beginning of the applicants' preparation for accession. Certainly, a major part of the improvement is not due to the stepwise adoption of the environmental acquis but to the breakdown of heavy and other industries in the first years of transition. Another part of the improvement can be explained by general sectoral changes towards less resource-intensive sectors, such as most service industries. Additionally, the transformation into market economies has led to a higher overall efficiency, again taking pressure from natural resources. To what extent the two latter developments are indirectly rooted in the countries' wish to join the EU is another question.<sup>2</sup>

Returning to the argument that the accession condition of the adoption of the environmental acquis will further improve environmental protection policies in the future member states, some reservations must be expressed. Although the environmental chapter has been provisionally closed with all of the ten acceding countries, none of the countries has so far completed the transposition of all the environmental acts into national legislation.<sup>3</sup> This, by the way, is also true for most current members and does not necessarily present a serious concern. It is of major importance that the core standards are transposed – as is the case in most of the acceding countries – implemented and properly enforced. In fact, implementation is far from satisfactory. Hardly any country fulfils the criteria in the areas of water quality and waste. Nor have the criteria for industrial pollution control, chemicals, genetically modified organisms (GMOs) and the building of administrative capacity been fully adopted in many of the future member states. All acceding countries

were granted transitional periods of 2 - 12 years in at least two major policy areas. In some cases it is already obvious that the periods will have to be prolonged.

Certainly, there are good reasons for these shortcomings. First, the costs of implementation and enforcement are too high for these countries, which are still economically less developed than most current EU members.<sup>4</sup> Second, different priorities demand the use of scarce financial and administrative resources for social and economic matters instead. Third, even many of the major elements of the EU environmental acquis simply do not fit the socio-geographic and environmental situation in most of the acceding countries. As indicated above, compared to most EU countries, there are a high number of severely polluted hot spots. On the other hand, in Eastern Europe there are also relatively large regions that are ecologically comparatively intact. In these regions, some of the EU directives might impose high costs but generate only few environmental benefits.<sup>5</sup>

### Further Efforts Needed

Undoubtedly the positive effects of EU enlargement on environmental policies in the applicant countries can already be felt. In order to speed up this process and to prevent their final accession's leading to a standstill, further efforts are needed by both the EU and the acceding countries. Additional financial resources from the EU are one option, especially as one euro spent on environmental protection in CEE countries has the potential to produce much higher environmental returns than one euro spent in, let's say, Sweden. But the budgetary situation and ongoing discussions do not point to any significant rise in funds for effective environmental projects. Some critics even argue that most of the EU funded projects (especially in the field of infrastructure and forestry) themselves not only harm the environment but undermine EU

<sup>1</sup> Cf. ECOTEC et al.: *The Benefits of Compliance with the Environmental Acquis for the Candidate Countries*, Birmingham 2001 ([http://europa.eu.int/comm/environment/enlarg/benefit\\_en.htm](http://europa.eu.int/comm/environment/enlarg/benefit_en.htm)).

<sup>2</sup> Cf. A. Carius, R. Kraemer: *Umweltpolitik in Mittel- und Osteuropa – Analyse der EU-Osterweiterung*, Berlin 2001.

<sup>3</sup> Commission of the EC: *Towards the Enlarged Union, Strategy Paper and Report of the European Commission on the Progress towards Accession by each of the Candidate Countries*, COM(2002)700 final, Brussels 2002; *ibid.*, Regular Reports, Brussels 2002.

<sup>4</sup> For a rather moderate estimation of the costs in some major areas, see Commission of the EC: *Challenge of Environmental Financing in the Candidate Countries*, COM(2001)304 final, Brussels 2001.

<sup>5</sup> Cf. A. Carius et al.: *The Eastern European Enlargement of the European Union and Environmental Policy*, in: K. Holzinger, P. Knoepfel (eds.): *Environmental Policy in a European Union of Variable Geometry?*, Basle 2000, pp. 141-180.

standards.<sup>6</sup> Another and probably more promising option is to foster and strengthen the future members' own devotion towards environmental concerns. On the one hand, this approach demands sectoral and regional flexibility when it comes to the contents of the EU regulations. On the other hand, the official sector's and the public's concern for the environment has to be strengthened as well as their capability to successfully influence environmental policies.<sup>7</sup> Otherwise, the adoption of the environmental *acquis* will show many of the inefficiencies and ineffectiveness generally connected with coercive policy transfers.<sup>8</sup>

### Growth, Sectoral Change and the Environment

EU enlargement will have significant environmental effects through economic growth, intra-EU trade and sectoral as well as technological change. The full integration of CEE countries into the Common Market is expected to further intensify growth and specialisation in these economies. Growth is known to have both negative and positive effects on the environment. Negative environmental scale effects are especially obvious in the field of transport where another increase in transboundary and intraregional transport flows is expected after accession. Negative structural and/or spatial effects might occur if dirty industries migrate to the future member countries and local standards are not adjusted. The growing of the tourism industry and other branches in so far relatively untouched regions is another area of concern. On the other hand, growth generates the resources necessary to clean up the environment and prevent future pollution. Further, it needs a certain income level to shift policy priorities towards environmental concerns. And, on average, in the past decade sectoral change turned out to be in favour of less pollutive industries. If environmental policies do improve during and after accession, there is little reason to expect a reversal. Additionally there is a slight chance of "leap-frogging", i.e. directly using the most advanced environmental technologies and skipping second-best. All the same, the possibility is rather high that negative environmental effects of scale will more than compensate positive net structural effects in the medium to long run. Therefore, the importance

of an effective and ambitious "home-grown" environmental policy must be emphasised again.

### Effects on European Environmental Policies

Many of the acceding states are better equipped in some fields for a strengthening of EU-wide environmental protection, especially in the field of nature conservation. In general, though, their capability and willingness to raise European standards is lower than in most current member countries. Thus, it is feared that the enlargement will have negative medium-term effects on European environmental policy. Among other things, so far it looks as if several major elements of the environmental *acquis* will not be adopted in the next ten or even more years. The higher the number of countries and cases where EU members do not apply environmental law, the greater is the danger of a general loss of discipline. Especially the environmentally more active countries further fear that the new member countries will join the already existing coalition against stricter environmental standards in the European Union. New majorities may not only delay environmental measures but might even lead to an environmental blockade within the EU, the possibility depending, among other things, on the future decision and voting structures. Furthermore, this might lead to a renationalisation of environmental policies with some environmentally advanced countries implementing much higher standards while others lag behind or even lower their standards.<sup>9</sup> Such scenarios not only have undesirable environmental effects but could also lead to the erection of new trade barriers in Europe, thus standing in the way of a truly common market. When it comes to the implications of EU enlargement for the EU's role in global environmental politics, however, the effects are less predictable. On the one hand, the argument above might hold in this context as well, leading to less ambitious EU targets in multilateral negotiations. On the other hand, the enlargement increases the political and economic weight of the EU on the global policy level. Additionally, the future members' commitment to carrying their share of protecting global environmental goods is most probably stronger as part as the EU than it would be otherwise. Nevertheless, the danger of a standstill and/or renationalisation exists on both the intra-European and the multilateral level. The risk of a flexibilisation "by anarchy" again underlines the necessity of flexibilising European environmental policy by rules. An adequate strategy would allow separate paces for an interim period and different paths while avoiding growing divergence, thus resulting in an overall strengthening of environmental standards. Effective rules would have to

<sup>6</sup> Friends of the Earth / CEE Bankwatch Network: Sustainable Theory – Unsustainable Practice? Billions for Sustainability? Third Briefing, Brussels/Budapest 2002.

<sup>7</sup> S. Crisen, J. A. Carmin (eds.): EU Enlargement and Environmental Quality, Proceedings of a Conference, Woodrow Wilson International Center for Scholars, Chapel Hill 2002.

<sup>8</sup> Cf. K. Thews: Politiktransfer: Phänomen zwischen Policy-Lernen und Oktroi. Überlegungen zu unfreiwilligen Umweltpolitikimporten am Beispiel der EU-Osterweiterung, in: Zeitschrift für Umweltpolitik & Umweltrecht, Vol. 25(2000), No. 2, pp. 173-201.

<sup>9</sup> Cf. I. Homeyer, A. Carius: Die Osterweiterung der Europäischen Union als Herausforderung für die Umweltpolitik, in: Zeitschrift für Umweltpolitik & Umweltrecht, Vol. 23(2000), No. 3, pp. 337-368.

be further developed and enforced in order to lead, in the long run, to environmental convergence on a high level.

### Conclusions

At the time being, the short-term environmental effects of the EU enlargement promise to be positive as a result of the adoption of the environmental *acquis* by the acceding countries. However, the adoption of the environmental *acquis* is not satisfactory from an ecological point of view and it is questionable whether it will be fully satisfactory at the end of the transitional periods. In the medium term there is a serious risk that the negative environmental effects of economic change will outweigh the positive effects of rising efficiency and sectoral change. Furthermore, enlargement might lead to a standstill in EU environmental policy, possibly leading to a renationalisation of environmental politics. Therefore, the option of flexibilisation by rules should be further elaborated, allowing for different paths at different paces in the field of environmental policy while leading to an overall improvement. The long-term effects of EU enlargement on the environment are hardly predictable. In the long run, economic growth bears the potential for better environmental protection.

It makes environmental protection more affordable. High-income countries usually value environmental protection more highly than economically less developed countries. The latter understandably focus their priorities on other policy targets. All in all, the key question is not whether all of the environmental acts of the EU are implemented in the acceding countries. What seems more important is whether enlargement offers these countries the economic and political opportunities to develop and enforce an ambitious “home-grown” environmental policy or whether the EU’s environmental standards and mechanisms are primarily seen as a coercive policy transfer attempt, the success of which is limited and, as a consequence, will lead to a blockade of further progress in the EU environmental regime. Finally, to put it clearly, recent as well as future environmental deterioration in the acceding countries would most probably be worse without the process of accession. Now, it is up to the EU and every single current and future member state to apply pragmatic rules in order to make sure that the enlargement neither erodes national discipline in the adoption of European environmental regulations, nor delays environmental progress in Europe.

Patrick ten Brink\*

## The Benefits from the Implementation of the EU Environmental Acquis in the Candidate Countries

The EU candidate countries have been making vast efforts over the last decade to align their environmental legislation and practice to that of the EU, transposing and implementing over 300 pieces of EU environmental legislation – the environmental *acquis communautaire*.

This has represented and still represents (see Box 1) a huge challenge to these countries. The *acquis communautaire* requires not just legislative transposition, but also changes in environmental policies, the development of administrative capacity,<sup>1</sup> changes in information provision and public participation, investment in environmental protection measures in industry and the development of environmental infrastructures.

\* Senior Fellow and Head of Brussels Office, Institute for European Environmental Policy, IEEP, London, UK. Ex-Associate Director of ECO-TEC’s Environment Group. He was the responsible for the “Benefits Study” – see later discussion.

While the stage of legislative transposition is now close to completion, the other steps continue to represent very significant challenges to the candidate countries – requiring many more years for certain directives to be fully implemented.

In addition to the environmental *acquis*, the candidate countries have also often been implementing equally demanding “chapters”<sup>2</sup> of the EU *acquis communautaire* for all sectors of the economy, representing significant changes in, *inter alia*, the industrial sectors, agriculture, energy, financial services, regional development and transport.

<sup>1</sup> For the challenges here see IEEP: [Administrative Capacity for Implementation and Enforcement of EU Environmental Policy in the 13 Candidate Countries](http://europa.eu.int/comm/environment/enlarg/pdf/administrative_capacity.pdf), London 2001, [http://europa.eu.int/comm/environment/enlarg/pdf/administrative\\_capacity.pdf](http://europa.eu.int/comm/environment/enlarg/pdf/administrative_capacity.pdf).

<sup>2</sup> There are 31 chapters; Environment is Chapter 22. For the state of play of negotiations see: [http://europa.eu.int/comm/enlargement/negotiations/pdf/state\\_of\\_play\\_08\\_11\\_02.pdf](http://europa.eu.int/comm/enlargement/negotiations/pdf/state_of_play_08_11_02.pdf).

**Box 1**  
**Transitional Measures Negotiations**

The accession negotiations in the environment chapter were opened with most of the Candidate Countries during 1999<sup>1</sup> to 2001. The negotiations have so far been provisionally closed with ten countries: Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia. Negotiations are still open with Bulgaria and Romania. Formal negotiations have not yet started with Turkey.

All of the 10 candidate countries which have provisionally closed the environmental chapter have negotiated transitional measures<sup>2</sup> and technical adaptations to give enough time for appropriate full implementation of the directives.

The timetable for full implementation has been extended for many directives (for the rest full implementation is required by accession). Transition bids were sometimes agreed for only an additional year or two (e.g. for volatile organic compound emissions (VOC) from storage of petrol, recycling of packaging waste), and in other cases for longer periods, notably up to 2015 for the investment heavy Drinking Water Directive (e.g. Latvia) and Urban Waste Water Treatment Directive (e.g. Hungary, Latvia, Poland, Slovakia and Slovenia).

<sup>1</sup> December 1999.

<sup>2</sup> For details of specific directives and transition periods see: <http://europa.eu.int/comm/enlargement/negotiations/chapters/chap22/index.htm>.

Discussions on the implementation of the environmental *acquis communautaire* has to date often focused on the costs of compliance with EU legislation<sup>3</sup> and the difficulty of finding sufficient money to fund the necessary investments, especially in light of the investment demands from implementing change in other sectors.

<sup>3</sup> Implementing the environmental *acquis* has been estimated to require an investment of around EUR 80 to 120 billion for the ten Central and Eastern European countries alone.

<sup>4</sup> The study was directed by Patrick ten Brink and carried out by the consortium ECOTEC, the Institute for European Environmental Policy (IEEP), EFTEC, Metroeconomica, TME and candidate country experts. It can be found on the European Commission's web-site: [http://europa.eu.int/comm/environment/enlarg/benefit\\_en.htm](http://europa.eu.int/comm/environment/enlarg/benefit_en.htm). This study was financed by DGENV of the European Commission. The views expressed in this article and in the full Benefits Study do not necessarily reflect those of the Commission.

There has, however, been far less discussion about the benefits that EU environmental directives will imply for the candidate countries, in both environmental and economic terms. There has also been insufficient discussion of the benefits to the EU of this enlargement. Finally, not enough has been thought about how to realise these benefits and, of course, how to avoid the costs that can arise from the integration of the candidate country economies within a broadened EU.

This paper summarises and is based on one significant initiative to bring the concept of benefits into the policy discussions and hence support implementation decisions – the study financed by the European Commission's Environment Directorate: *The Benefits of Compliance with the Environmental Acquis for the Candidate Countries*.<sup>4</sup>

This study assessed the benefits of compliance with the EU environmental *acquis* by examining the hidden costs to the economy caused by lower environmental standards, a lower level of protection and a lesser availability of environmental infrastructures, goods and services.

**The Benefits Study: An Overview**

The "Benefits Study" assessed the benefits of the candidate countries' complying with the EU *acquis communautaire*, focusing primarily on the directives in the air, waste, water and industrial chapters.

For around 30 key directives, assessments were made of:

- the nature of the changes that implementation would imply
- the extent of the changes (e.g. how many fewer tonnes of sulphur dioxide would be emitted and the related figures concerning the avoidance of ill-health and early mortality)
- the value of the changes (monetisation) for each of the thirteen candidate countries.

These three steps, or evaluation "tiers", are equally important.

Certain directives or policies could be assessed at all three of these evaluation "tiers" – notably the Large Combustion Plant Directive (LCPD, 1999/31/EC) and linked air pollution directives. Others could only be covered more qualitatively (e.g. Natura 2000). Yet others remained outside the scope of the study, notably the directives on GMOs (genetically modified organisms) and EIA (environmental impact assessment) or

**Box 2**  
**Project Methodology and Scale**

The Benefits Study was a one-year project involving five key partners experienced in candidate country issues and benefits assessment, and experts from each of the thirteen candidate countries.

To calculate the monetary value of benefits, existing scientific relationships of pollution exposure and health impact (known as dose-response functions) were used where available. The scientific literature generally presents such relationships in terms of ranges of probabilities to reflect levels of scientific certainty. To assess who was exposed to the pollution, a well-known international dispersion model (EcoSense) was used, complemented by formally (e.g. from statistical offices, national ministries) available data where possible.

In short, existing exposure to pollution gives results for incidence of illness and early mortality. And a reduction in pollution levels due to implementation of the acquis leads to a reduction in illness and mortality incidence. This reduction in impact is the basis for the calculation of the health benefits (numbers of illnesses and early mortality avoided) and associated value (by multiplying impacts by the controversial concept of the value of prevented fatality (VPF) and value of avoided illnesses, taken from existing literature).

For areas where “dose-response” functions were inappropriate (e.g. for valuing the public benefit of improved water quality), existing values of public preference<sup>1</sup> were used (mainly EU and US sources), with transfer values calculated for the candidate countries by weighting per capita GDP to avoid exaggerating benefits.

A core analysis was carried out assuming an implementing date of 2010, and sensitivities of this assumption were analysed – see the full Benefits Study report for details. Where it was possible to monetise benefits, further sensitivities using different discount rates were used to check the robustness of the results. At all stages assumptions and their impact on the robustness of the results were noted.

Finally, drafts of the report were submitted to comments by various units of the European Commission as well as the OECD, and comments taken on board.

<sup>1</sup> Known as “willingness to pay” values, based on contingent valuation studies – also used for the value of avoided illness.

chemicals strategy. The main benefit types explored are:

- *health benefits*: direct benefits to public health, e.g. a reduction of cases of illness and the avoidance of early mortality, notably from respiratory diseases;
- *resource benefits*: benefits to parts of the environment used commercially, e.g. forestry, agriculture and fisheries;
- *ecosystem benefits*: benefits to the natural environment with no commercial interest and ecosystem service benefits (where the ecosystem provides services for water supply and purification, carbon storage, or flood control). The disruption of these services can lead to the loss of important resources and necessitate often significant, additional spending;
- *social benefits*: benefits to society at large, including the safeguarding of and access to natural and cultural heritage (avoided pollution damage to historic

buildings or the destruction of historic landscapes), recreational opportunities (e.g. angling and bathing), social cohesion due to support for employment, social learning and the development of civil society (due to increased information provision, consultation and involvement);

- *wider economic benefits*: knock-on benefits beyond immediate economic exploitation, including local and regional development (attracting investment) often supported by increased employment through environmental investments, eco-efficiency gains, the development of new and existing industries/sectors of the economy, balance of payment and trade effects (reduced imports of primary materials as more waste is reused and recycled), and economic benefits from natural resources (e.g. tourism benefits of beaches recognised to be clean, and eco-tourism).

Of these benefits only some could be valued in economic terms, and it is important to look at the potential benefits (as indeed the costs) at all three levels for a

proper appreciation, and of course, in light of the “uncertainties” of the methods applied and assumptions that always have to be made for such types of evaluation. The key results are noted below, including result ranges to avoid suggesting a level of accuracy impossible with benefits valuations. To present the results in context, Box 2 presents a summary of the project methodology and scale.

### Key Study Results

The study highlighted and assessed the range of benefits that the implementation of EU environmental directives will bring to the candidate countries and, where easily calculable, for the EU and third countries. The results of the study show that there are very significant benefits to be gained by all candidate countries from fully implementing EU directives. More precisely:

*Health benefits*, of avoided morbidity and mortality are one of the most striking benefits. For example, fully implementing the EU directives related to air quality can lead to between 15 000 and 34 000 fewer cases per year of premature deaths from exposure to air pollution, and between 43 000 and 180 000 fewer cases of chronic bronchitis.

The annual value of all these benefits combined ranges between EUR 12 and 69 billion in the year of full implementation of the environmental *acquis*. This corresponds to between EUR 80 and 410 per capita. Over the time-period until 2020, the cumulative benefits amount to between EUR 130 and 680 billion. Even the lower figure<sup>5</sup> suggests that the value of benefits is significant and that the importance of the benefits could usefully be explored in more detail for key decisions in the candidate countries.

*Improved air quality*, resulting from the implementation of EU directives, accounts for around 55% of the total value of these benefits. The benefits from reducing air pollution relate mainly to improved public health through fewer respiratory diseases and, most importantly, fewer cases of premature deaths. There are also significant benefits from a reduced burden on agricultural crops and avoided damage to buildings.

The benefits of EU directives not only accrue to the candidate countries. *Reductions in trans-boundary air pollution will yield significant cross-border and trans-national benefits*. A key result is that the total benefits from the candidate country *acquis* implementation

<sup>5</sup> While the study did not seek to make an explicit comparison to the costs of implementation, it is clear that the lower bound benefits estimate is of the same order of magnitude as the estimate for investments required to implement the environmental *acquis*.

measures for other countries amount to EUR 16 billion a year. The EU member states will benefit by EUR 6.5 billion and other countries, notably the Ukraine, Belarus and Russia, by some EUR 9.5 billion a year. Overall the benefits of candidate country implementation of the *acquis* will lead to as many benefits outside the candidate countries as within the candidate countries.

The benefits from implementing the EU's *water related directives* include improved access to clean drinking water, bathing water and rivers. Up to 59 million households could benefit from improved drinking water quality, and 10 million households are expected to benefit from new connections to drinking water. River quality will improve, with more rivers being designated as of “good” quality than before. For example the number of rivers designated as of “good” quality will more than double in Bulgaria through the implementation of the *acquis*. The value of these benefits, together with the benefits of increased recreation from cleaner surface waters, amount to around EUR 5 to 14 billion a year.

The benefits from implementing EU *waste directives* include reduced methane emissions, which benefit public health and reduce greenhouse gas emissions (and hence battle against global warming) and a reduced impact on the environment through increased recycling and the reduced use of primary materials. The level of recycling from the Packaging Directive is likely to increase by around 3.7 million tonnes – or on average around 22 kg per capita. In addition, implementing the Landfill Directive (under the maximum recycling and composting scenario) will lead to around 54 million tonnes of diverted bio-degradable waste being recycled or composted by 2020. The reduction in methane emissions should be between 1 and 6 million tonnes per year. The value of the waste related benefits ranges from EUR 1 to 12 billion a year, with the benefits likely to be higher under the maximum recycling scenario than under the incineration scenario.

In the case of *nature conservation*, EU directives are likely to secure protection of tens of millions of hectares of valuable habitats and hundreds of endangered species. Furthermore, the appropriate development

<sup>6</sup> This notes that there is a significant quantity of “hidden unemployment” in the agricultural sector, which is likely to surface with broader competition. Rural development can lead to some of the lost jobs being supported through other activities in the area.

<sup>7</sup> This is a very broad estimate, indicating the level of importance, and depends upon the development of wage rates and share of wages in turnover. See also the recent ECOTEC study noting that 77,000 jobs were supported by environmental expenditure in the candidate countries in 1999: ECOTEC: Analysis of the EU Eco-Industries, their Employment and Export Potential, 2002, [http://europa.eu.int/comm/environment/enveco/industry\\_employment/ecotec\\_exec\\_sum.pdf](http://europa.eu.int/comm/environment/enveco/industry_employment/ecotec_exec_sum.pdf).

**Box 3****Benefits Assessments: Other Studies**

The 1997 "Costs and Benefits of Eastern Enlargement" study by the Centre of Economic Policy Research<sup>1</sup> estimates that accession would result in least EUR 10 billion of benefits for existing EU member states and EUR 23 billion of benefits for the candidate countries.

A relatively recent study by the European Commission estimates that enlargement could lead to an increase in GDP growth of between 1.3% and 2.1% per year in the accession countries, and a growth of 0.7% in the existing member states.

In addition, existing work on the benefits of Natura 2000 underline the specific benefits that Natura 2000 can create through its role as a motor for sustainable rural development.<sup>2</sup>

<sup>1</sup>R. Baldwin, J.F. François and R. Portes: The Costs and Benefits of Eastern Enlargement, in: Economic Policy, Vol. 24, 1997.

<sup>2</sup> See IEEP: Promoting the Socio-Economic Benefits of Natura 2000, London 2002, <http://www.ieep.org.uk>.

of Natura 2000 sites can lead to the sites becoming important motors for sustainable rural development, addressing part of the agricultural challenge facing the candidate countries.<sup>6</sup>

In addition, the expenditure on *environmental goods and services* will help develop the eco-industry sector of the economies and support significant jobs within this sector. The Benefits Study order of magnitude estimate suggests that up to 1.8 million jobs could be supported at any given time, of which around 0.5 million would stem from capital expenditure and the remaining 1.3 million from the provision of environmental services and from the operation and maintenance of environmental infrastructure.<sup>7</sup>

Many benefits of EU directives have not been fully covered when assessing the monetary values. This includes the protection of sensitive ecosystems and biodiversity. Some environmental investments might also lead to benefits not directly related to the environment. They can improve economic efficiency and boost productivity, for example by facilitating the take-up of modern technology, by lowering production and maintenance costs for companies through better

<sup>6</sup> Total candidate country public and private expenditure averaged at 1.9% of GDP in 1999.

water quality and by providing savings in the form of more efficient waste management.

Box 3 presents some key results of benefits assessment – for the general case of accession – to put the benefits study into context.

**Policy Insights and Recommendations**

The range, nature and extent of the benefits that should accrue from the implementation of the EU environmental *acquis* underline that:

Candidate countries' current efforts to implement EU environmental directives should be maintained, if not strengthened, and efforts are needed to ensure that the environment does not "lose out" in policy and investment attention to other sectors more classically assumed to offer benefits. Not only should existing budgets for the environment<sup>8</sup> be defended and in many countries increased, but particular effort and attention is also needed to increase effectiveness and benefits.

A greater appreciation of the types of benefit and how these can be achieved needs to be integrated into decisions on implementation planning. All benefits need to be taken into account, and not just those calculable in economic terms. In many cases social benefits are important and impossible to monetise.

The timing of implementation is important for the level and allocation of benefits. Obviously early implementation leads to greater benefits, as the benefits would start to accrue earlier given earlier reductions in emissions, and improvements in air and water quality and waste management practices. Less obviously, the gains in benefits from early implementation are larger than the increase in costs.

Also less obviously, the timing of efforts across different directives is important given the linkages between directives – the upstream or pollution emissions related directives (e.g. Dangerous Substances Directive, LCPD Directive) could generally be better implemented before the downstream or more environmental quality related directives. Having said this, the interrelationships between directives are strong and the implementation of several of them is needed to ensure full benefits. Implementation plans could valuably reflect this by ensuring that all directives are looked at and that any dangers of prioritising only a small subset of directives are understood and avoided.

<sup>8</sup> ECOTEC, op. cit., footnote 10.

The environmental benefits will be enhanced if the implementation of other policy areas such as agriculture, transport and energy takes into account environmental concerns and integrates the principle of sustainable development. Similarly, the implementation of the other policy areas could usefully take on board the knowledge of the likely benefits associated with environmental measures.

The implementation strategy and approach is itself an important factor behind benefits – and the relative impacts under ensuing development paths need to be taken into account in policy decisions. For example, implementing the Landfill Directive with a preference for recycling/composting rather than incineration will lead to greater job creation, given the higher labour intensity of recycling and composting activities.

Prioritisation of investments should reflect not just the key criteria of cost-effectiveness (e.g. the number of households connected to waste water treatment per million euro spent), but also an appreciation of local and regional development needs and their role in encouraging inward investment, foreign direct investment and subsequent economic multiplier effects. This might in some places suggest that implementation in poorer regions could be more beneficial than in richer regions, especially where policy-makers wish to particularly encourage cohesion across regions.

Parallel “enabling” policies are often needed to realise benefits – for example increasing investments in environmental goods and services creates a growing market for environmental goods and services, open to both domestic and foreign firms. This has been estimated at EUR 10.3 billion for the pollution control related market and EUR 13 billion with resource management included.<sup>9</sup> Policies to ensure appropriate offers of goods and services will facilitate benefits – to the domestic and/or foreign suppliers.

Investment programmes in the environment and other sectors need to integrate an appreciation of the benefits and, indeed, in the project selection procedures to ensure that the appropriate pipelines of projects<sup>10</sup> are developed, supported and implemented.

The need for international collaboration, whether cross-border, or through EU funds, should be appreciated not just as a benefit to the countries implement-

ing the *acquis*, but also for the benefits that accrue to the bordering countries, the EU and third countries.

Taking these insights into account should help lead to a more balanced approach to benefits and costs in the great challenge of implementing the *acquis*. It is clear that the environmental chapter, and indeed integration of the environment into other sectoral policies, should not be regarded as a cost item in the route to accession and post-accession activities, but as a potentially valuable source of benefits. This includes social, economic and environmental benefits as well as its role as a potential motor for sustainable development.

Furthermore, a proper integration of benefits into policy development, planning and implementation will support the following key challenges facing the candidate countries:

- *Meeting the negotiated promises*: the implementation of many of the directives by the agreed dates, whether the accession date or negotiated transition period, remains in many cases a non-trivial challenge. Political will and policy implementation that reflects a full appreciation of the potential benefits of compliance with the environmental *acquis* should facilitate this task.
- *Ensuring greatest benefits*: there are different implementation choices and pathways, and the timing of implementation and location of initial investment will have important effects on regional development and the costs of other directives (given interrelationships between upstream and downstream directives).
- *Avoiding new costs potentially arising from integration*: competition, consumer demands and economic growth each offer well-known risks to the environment, which need to be recognised and minimised. Integration of environmental considerations into other sector policies and policy implementation is clearly important here.

Finally, it is important to underline that implementation of the *acquis* and the benefits do not stop at the date of accession of the candidate countries. Much remains to be done after accession, and appropriate policies and implementation programmes stand to continue to offer significant benefits for at least the decade to come. Only with continued awareness and interest by local, national and international actors will the full benefits be realised and the full opportunity of EU enlargement for both the candidate countries and the EU Member States be realisable.

<sup>10</sup> See also the Commission Communication: The Challenge of Environmental Financing in the Candidate Countries, COM (2001)304, [http://europa.eu.int/eur-lex/en/com/pdf/2001/com2001\\_0304en01.pdf](http://europa.eu.int/eur-lex/en/com/pdf/2001/com2001_0304en01.pdf).

Ingmar von Homeyer\*

## The Impact of Enlargement on EU Environmental Governance

European environmental policy has often defied those who predicted a lowering of environmental standards as a result of the creation of the EU Internal Market and the associated increasing regulatory competition among the Member States. However, the planned enlargement of the EU to the East is often seen as a potential threat to the continuation of this success. Adopting a historical institutionalist perspective, this paper argues that, rather than a threat, enlargement offers opportunities for policy-makers to intensify reform efforts already under way to reduce the implementation deficit and increase the effectiveness and legitimacy of EU environmental policy. This view is based on three main premises. First, enlargement is likely to have a differential effect on the mechanisms which have led to the adoption of high-level environmental standards in the past. Second, the threat which enlargement poses to the future functioning of certain mechanisms is already producing reactions that may allow these mechanisms to continue to operate in an enlarged EU. Third, enlargement may reinforce emerging shifts in the mechanisms driving EU environmental policy, which are produced by the larger challenge of sustainable development.

### Analytical Perspective

Historical-institutionalists argue that the concrete shape and functioning of institutions – in particular encompassing institutions such as EU environmental policy – are relatively stable over time because they are heavily conditioned by the past. More specifically, institutional development tends to be path dependent. Path dependent processes have two main features. First, they are characterised by a special importance of early events, in particular the initial “critical juncture”, for further institutional development. Second, path dependent development may either result from positive feedback or take the form of a more dialectical “reactive sequence”.<sup>1</sup>

If it happens, institutional change can take two forms. On the one hand, there is the possibility of a breakdown caused by sudden shocks which disable the causal mechanisms underlying institutional reproduction. On the other hand, institutions may gradually decline if they fail to adapt to more limited changes. Adaptation may occur in several ways. In a process of “institutional conversion”, existing institutions may come to serve new purposes. “Institutional layering” implies that new features may be added to an institution without modification of the pre-existing rules.<sup>2</sup> Adaptation may also result from shifts in the relative importance of different parts of an institution causing an “internal drift”.

As illustrated in Table 1, it is possible to identify four types of mechanisms which account for institutional reproduction and change. First, utilitarian mechanisms allow an institution to persist as long as it makes a positive contribution in terms of actors’ cost-benefit calculus. Second, institutional reproduction may depend on whether the institution continues to serve a function for a larger system. Third, an institution may be reproduced as long as it consolidates the power of an elite group. Finally, institutional reproduction may be owed to its conformity with prevailing values.

At a first view, a historical-institutionalist perspective seems to suggest that EU enlargement may amount to a sudden, dramatic change of the conditions under which the mechanisms that sustain EU environmental governance operate. Yet, as argued below, EU environmental policy is best viewed as a set of several institutions or “governance regimes” which are based on different types of reproductive mechanisms. Therefore it seems unlikely that there will be a breakdown of EU environmental policy as such. Rather, the reproductive mechanisms underlying some governance regimes may be more affected by enlargement

\* Senior Research Fellow, Ecologic – Institute for International and European Environmental Policy, Berlin, Germany. An earlier version of this article was presented at the conference “EU Enlargement and Environmental Quality in Central and Eastern Europe and Beyond”, Woodrow Wilson International Center for Scholars, Washington DC, March 14, 2002.

<sup>1</sup> James Mahoney: Path Dependence in Historical Sociology, in: *Theory and Society*, 2000, Vol. 29, No. 4, pp. 507-548.

<sup>2</sup> Kathleen Thelen: Timing and Temporality in the Analysis of Institutional Evolution and Change, in: *Studies in American Political Development*, 2000, Vol. 14, pp. 101-108.

**Table 1**  
**Typology of Path-dependent Explanations of Institutional Reproduction**

	Utilitarian explanation	Functional explanation	Power explanation	Legitimation explanation
Mechanism of reproduction	Institution is reproduced through the rational cost-benefit assessments of actors	Institution is reproduced because it serves a function for an overall system	Institution is reproduced because it is supported by an elite group of actors	Institution is reproduced because actors believe it is morally just or appropriate
Potential characteristics of institution	Institution may be less efficient than previously available alternatives	Institution may be less functional than previously available alternatives	Institution may empower an elite group that was previously subordinate	Institution may be less consistent with values of actors than previously available alternatives
Mechanism of change	Increased competitive pressures; learning processes	Exogenous shock that transforms system needs	Weakening of elites and strengthening of subordinate groups	Changes in the values or subjective beliefs of actors

The table is reproduced from: James Mahoney: Path Dependence in Historical Sociology, in: *Theory and Society*, 2000, Vol. 29, No. 4, pp. 507-548.

than others. Consequently, there may be potential for a breakdown of one of the regimes, but others may be more resistant to decline.

#### **EU Environmental Governance Regimes**

Three governance regimes constitute EU environmental policy: the "Internal Market regime," the "environmental regime," and the "sustainability regime." Each regime is based on particular institutional reproduction mechanisms. The Internal Market regime primarily applies to environmental product standards. In this case, environmental legislation is usually based on Article 95 TEC on the adoption of harmonisation measures to create the Internal Market. The Article prescribes the Co-decision Procedure to adopt legislation. Besides qualified majority voting in the Council, this Procedure provides for a relatively strong influence of the European Parliament, which tends to be more supportive of high environmental standards than either the European Commission or the Council. Article 95 also stipulates that the Commission must ensure that its legislative proposals reflect a high level of environmental protection. Under certain conditions the Member States may even retain stricter environmental standards than those agreed by the Community. The principal mechanisms underlying the Internal Market regime are functional and utilitarian. First, the Internal Market performs essential functions for the European project as a whole. Second, relatively strict environmental product standards primarily result from the fact that highly regulated Member States have a significantly smaller economic interest in harmonisation than countries with lower product standards. Consequently, highly regulated Member States can put considerable pressure on the countries with lower

standards to accept relatively stringent EU regulations in exchange for harmonisation. The Co-Decision Procedure and the possibility of maintaining higher national standards under Article 95 further increase the leverage of highly regulated countries.

The second regime is the environmental one. Mostly applying to process standards which are less directly relevant to the Internal Market, it is based on Title XIX TEC on the Environment. The Title prescribes either the Co-decision Procedure or the Consultation Procedure. Due to the national veto right, consultation empowers Member State governments *vis-à-vis* the Commission and the Parliament. The requirement to pursue a high level of environmental protection appears to be more conditional than for the Internal Market. While Member States may exceed Community standards, Title XIX also allows for temporary derogations if Member States face "disproportionately high costs" of EU environmental measures. The environmental regime uses utilitarian and power mechanisms. The adoption of relatively stringent environmental process standards is largely driven by the interest of highly regulated Member States in avoiding competitive disadvantages and adaptation costs. These Member States exert disproportionate influence on EU environmental policy because of the institutional insulation of environmental policy-making from rivaling interests in the Commission and the Council. Under these circumstances, highly regulated countries effectively exploit their superior technical and economic resources and extensive regulatory experience to set the EU environmental agenda.

Finally, the emerging sustainability regime is based on Article 6 TEC which was introduced in 1997 to

implement the EU commitment to sustainable development. Article 6 requires the integration of environmental concerns into all Community policies. In practice, the sustainability regime has so far primarily relied on the so-called Cardiff Process in which nine sectoral Council formations – such as Agriculture, Competitiveness or Ecofin – are working on strategies to integrate environmental concerns into their activities. More recently, these efforts have been reinforced by the adoption of the EU Sustainable Development Strategy. The sustainability regime largely relies on procedures similar to the Open Method of Co-ordination (OMC), which was codified at the 2000 Lisbon European Council. This non-legislative policy-making method is based on setting short, medium and long-term policy guidelines, establishing performance indicators and benchmarks, periodic monitoring, peer review etc. The main mechanism underlying the sustainability regime is legitimacy. The development of sectoral environmental policy integration strategies depends on social learning and the acceptance and internalisation of the concept of sustainable development. Certain highly regulated Member States and parts of the Commission act as political entrepreneurs who diffuse the concept at European and national levels. However, while sustainable development has been established as a norm that is rarely openly opposed, it does not yet sufficiently pervade the sectoral integration strategies, which tend to be too vague.

#### **Environmental Policy in the Accession Countries**

The Central and Eastern European Countries (CEECs) share a common recent history. The impact of the accession of any particular CEEC on EU environmental policy is, nevertheless, also dependent on country-specific ecological, economic and political influences. At the risk of neglecting these differences, the following factors reflect a set of highly generalised characteristics of environmental policy-making in most CEECs.

- The case for sustainable development is particularly persuasive in CEECs. First, environmental quality in CEECs is still characterised by a sharp contrast between heavily polluted environmental hot-spots and large, unspoiled areas. Second, CEECs are in the midst of a process of economic and social restructuring. While restructuring may further reduce industrial pollution, the transition to a market economy, the expansion of the service sector, changing investment, consumption, settlement and mobility patterns, as well as increasing integration into European and global markets pose a threat to the preservation

of the expansive natural reserves which are largely a legacy of central planning.

- Despite the wave of environmental reforms in the early 1990s, in many CEECs environmental protection now ranks low on the political agenda, which is dominated by the economic and social problems of transition. In addition, environmental concerns are only weakly rooted in party systems and civil society.
- These problems are compounded by weak administrative capacities and inefficient, highly bureaucratic decision-making. There is often intense rivalry between the environment ministries and sectoral ministries as well as internal conflicts within environment ministries. Administrative and technical monitoring and enforcement capacities are weak, in particular at the regional and local levels. In addition, the approach to solving environmental problems tends to rely on available technical solutions rather than on promoting innovation and on the mobilisation of societal resources.
- EU accession amounts to a major exercise in restructuring, administrative and technical capacity building, and investment in clean-up technology because the EU expects the accession countries to practically apply most EU environmental legislation by the date of accession. However, the EU has also granted several long transitional periods for particularly investment heavy requirements. The accession process has already significantly affected environmental policy in CEECs in various ways. EU pressure has partly compensated for the lack of domestic incentives for an active environmental policy. Additionally, environmental legislation and administrative structures have been modernised. However, on the whole, it seems unlikely that these positive effects will suffice to compensate for past neglect, weak political support structures and, in particular, the potential negative medium and long-term environmental consequences of restructuring and accession outlined above.

#### **Effects on EU Environmental Governance**

What is the likely impact of enlargement on EU environmental governance, assuming that the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia (as well as Cyprus and Malta) will join the Community in 2004? As proposed above, it is useful to assess each environmental governance regime separately. It also seems helpful to distinguish between impacts on EU environmental policy formulation and implementation.

### **The Internal Market Regime**

The first environmental regime is based on the functional and utilitarian mechanisms underlying the Internal Market. It appears unlikely that this logic will be undermined by enlargement. First, because the Internal Market performs core functions for the Community, the EU has been keen on ensuring that enlargement will not weaken the Internal Market. This was demonstrated, for example, by the fact that the EU pressed the accession countries at an early stage of the so-called "pre-accession" process to adopt and implement Internal Market legislation. Second, the accession countries themselves have a significant economic interest in the harmonisation of environmental product standards. This interest is much stronger than that of the highly regulated Member States, because it is primarily the accession countries' exports that are threatened by high environmental product standards in the other Member States. Highly regulated Member States can, therefore, put pressure on the accession countries to accept stringent product standards in exchange for harmonisation. A similar logic applies to implementation. The implementation difficulties in the accession countries are unlikely to seriously affect the Internal Market regime, because highly regulated Member States may ban imports that do not comply with Community environmental standards. Consequently, at least the major export oriented producers in the accession countries have an economic interest in ensuring compliance.

### **The Environmental Regime**

There could be a significant impact of enlargement on the power and utilitarian mechanisms underlying the environmental regime. Ultimately, this might even lead to the regime's demise. First, enlargement will dramatically increase the number of Member States represented in the Council. This is generally expected to decrease decision-making efficiency and raise the potential for deadlock. Therefore, less or weaker EU legislation will be agreed. Second, most prospective Member States are likely to prefer a low level of environmental regulation once they have joined the Union. This seems to be largely due to structural conditions, such as limited organisational, administrative, and financial capacities, lack of domestic political incentives for a more proactive environmental policy, and the preoccupation with the economic and social implications of transition and EU integration. Enlargement would, therefore, significantly weaken the position of the highly regulated Member States in the Council. It seems questionable whether the political insulation of

EU environmental policy-making and the superior resources of the highly regulated Member States, which have so far compensated for their low number of votes in the Council, would continue to secure the adoption and implementation of stringent environmental process standards in an enlarged EU.

Enlargement may also negatively affect the implementation of environmental process standards. First, in contrast to product standards, producers have no direct self-interest in compliance. On the contrary, at least in the short term, non-compliance may render their products more competitive. Because non-compliance may be rational for many producers, the lack of administrative capacities for monitoring and enforcement in the accession countries is likely to have a particularly strong impact on the effectiveness of the environmental regime. Second, many process standards, such as the Urban Waste Water Directive, require considerable investment. As a result of the accession negotiations, the accession countries obtained long transitional periods for the full implementation of this Directive. The length of the transitional periods and the example of former accession countries raise doubts as to the prospects for full implementation of investment heavy, environmental process standards in the accession countries. Spain, for example, joined the EU in 1986 but is still far from full implementation of the Urban Waste Water Treatment Directive, despite massive financial support by the EU.

Similarly, in recent years the EU has increasingly used procedural and flexible regulations, such as the Environmental Audit (EMAS) Regulation or the Water Framework Directive, to increase the efficiency of environmental measures and reduce the implementation deficit. However, effective implementation of these regulations is particularly demanding with respect to administrative capacities and the mobilisation of civil society. Given the weak structures in CEECs in both of these respects, this approach may not be successful in the accession countries. The lack of clear, substantive targets may even create additional opportunities to avoid effective measures.

Against this background, it is possible to identify two very different potential trends. First, considering that the interests of highly regulated Member States in effective environmental protection and in reducing competitive disadvantages and adjustment costs are at the root of the environmental regime, it seems questionable whether these countries would continue their efforts to maintain and extend the regime in the face of increasingly more relaxed EU process standards

and ever growing implementation problems in the accession countries. In such a situation, these countries might gradually abandon the environmental regime and “renationalise” environmental process standards.

Second, there are also emerging opportunities to avoid a breakdown of the environmental regime by adapting it to a changing context. For example, the Amsterdam and Nice Treaties introduced provisions on Enhanced Co-operation. These new rules offer a minimum of eight Member States the possibility of using the European institutions to agree on standards which exceed Community standards. Highly regulated Member States may choose to use Enhanced Co-operation to renew their leadership role. More specifically, the exercise, or even the mere threat, of setting up Enhanced Co-operation may generate economic, administrative and political advantages for the potential participants. In this way, highly regulated countries could put pressure on, and offer incentives to, environmentally less proactive Member States to follow their lead.

#### **The Sustainability Regime**

The low political priority of environmental protection, overly bureaucratic administrative structures, the lack of mobilisation of civil society in environmental matters in the accession countries, as well as the legally non-binding character of the sustainability regime, suggest that enlargement would negatively affect this regime. But this will not necessarily be the case. In fact, if the present Member States give sufficient support to the emerging sustainability regime, it may come to play an important role in an enlarged EU. First, since the regime is still very young, it offers more opportunities for the accession countries to actively shape it than the older, more established regimes. This could increase the commitment of accession countries to the sustainability regime. Second, the regime is specifically designed to promote sustainable development. As pointed out above, due to present environmental conditions and economic and social restructuring in the accession countries, a shift towards sustainable development is particularly promising in Central and Eastern Europe. Third, and perhaps most importantly, the sustainability regime is primarily driven by reproductive mechanisms based on normative change as a result of information, social learning and peer review. Unlike the adoption and implementation of legislation, which is at the centre of the Internal Market and environmental regimes, the internalisation of the norms and practices of sustainable development

is a more subtle process that might gradually improve the conditions for environmental policy-making in the accession countries. While normative and cognitive change is time-consuming and, therefore, unlikely to be successful in the absence of stabilisation over time by sufficient institutionalisation of the sustainability regime at the EU level, the need for financial resources and administrative capacities is relatively low. Consequently, implementation should not pose particular problems in the accession countries.

#### **Conclusions**

Enlargement may affect the three environmental governance regimes which together constitute EU environmental policy in very different ways. The Internal Market regime is based on functional and utilitarian reproductive mechanisms rooted in structures – the institutionalisation of the Internal Market at the core of the Community and the interest of countries with low environmental product standards in harmonisation – that are unlikely to be strongly affected by enlargement. In contrast, it seems possible that enlargement will significantly weaken the environmental regime. If enlargement shifts influence in favour of countries supporting a low level of environmental regulation, this would seriously affect the power and utilitarian mechanisms on which the environmental regime is based. The highly regulated countries could no longer use the environmental regime as an instrument to impose their regulations on the remaining Member States. This would deprive the regime of its most important support base. However, emerging new mechanisms, in particular Enhanced Co-operation, may offer ways for the highly regulated Member States to maintain their superior position and adapt the environmental regime to enlargement. Finally, although the present conditions for environmental policy integration may be even worse in the accession countries than in many present Member States, this might change in the longer run as a result of the particularly good opportunities and potentially large benefits of a shift to sustainable development in these countries. Whether or not this shift will occur appears to depend less on scarce financial resources and administrative capacities of the accession countries than on a firm institutionalisation of the sustainability regime at the Community level. It is up to the highly regulated Member States, which have so far promoted this emerging regime, to achieve this consolidation under relatively favourable conditions before enlargement takes place.

Caroline Jackson\*

## Where to Now? A Look at Likely New Developments in EU Policy on the Environment

I have chaired the committee of the European Parliament on the Environment, Consumer Protection and Public Health since 1999. Our meetings are crowded (hundreds of lobbyists throng the gallery) and well attended – rarely less than 55 of the potential 60 members being present. Our remit is very wide – too wide for some of the other parliamentary committees who resent the fact that we can legitimately tread into their territory. The thrust of our conclusions is green-ish, with an increasing scepticism about the EU's practical ability and willingness to carry through the often expensive policies that ministers sign up to. We work with three Commissioners – Wallstrom (Environment) Byrne (Consumer Protection and Health) and Liikanen (Industry).

The Environment Committee deals with proposals where the European Parliament has the maximum power to influence the outcome. Under the “co-decision” process, most of the draft proposals that come to us from the Commission can be vetoed by the Parliament in its final vote. If we vote against (by a simple majority of members present), such proposals proceed no further.

But this potential hammer blow is preceded by lengthy negotiations with Council and Commission where MEPs have a chance to exert great influence over the shape of the final text. First this is through our public debates and two readings. Once these throw up disagreements between Parliament and Council we open the conciliation committee (15 MEPs and 15 representatives of the Member States) and meet and meet again, far into the night, to reach agreement on areas of dispute. It's a ramshackle and unsatisfactory process, taking place behind closed doors, but it does work, at least in the sense of delivering legislation.

So what happens next? Do we simply plough on, with more of the same, in a Parliament of 732 MEPs, with bigger committees, and more complex voting procedures and strange alliances? There are already some pretty strong clues as to what will happen, and “more of the same” is not really an option.

\* MEP, Chair of the Committee on the Environment, Consumer Protection and Public Health, Brussels, Belgium, and Strasbourg, France.

For one thing, there is already a huge problem in ensuring that laws adopted by the 15 Member States are transposed into national law properly, and are then implemented and applied in a similar way. Of course directives allow some latitude but the basic rule is that countries have some leeway as to how they get from A to B, but are at least expected to reach B, and not wander off in the general direction of H, or just decide to stay at A.

The current situation, much worse in the expensive area of environmental protection than in other areas, is that many countries sign up to laws in Ministers' meetings, then delay transposition, and then later delay full implementation, meanwhile ignoring whatever deadlines are set for the Commission to receive reports on their progress. Without such reports the Commission is hamstrung in its role as enforcer. It lacks the means to find out what is happening in the 15, and possibly lacks the constitutional powers of entry sufficient to find out – most of all, it lacks the will. This is changing under the guidance of the present Environment Commissioner, Mrs Wallstrom, but she has powerful forces of resistance and inertia to cope with, and not enough staff to follow up everything effectively. Of course the Court of Justice now has power to fine countries that ignore the law, but the process is terribly long drawn out. There has only been one fine against a country for failing to comply with EU environment law – and that case, against Greece, took 16 years to come to court.

Where it does take action against Member States for non-compliance the Commission is therefore heavily reliant on random complaints to Brussels by members of the public. It has no environment inspectorate, and there will be no force of EU food inspectors with the setting up of the new European Food Authority. Where the Commission does have a force of inspectors – in the European Food and Veterinary Office – their effectiveness has been weakened (and their numbers reduced by resignation) following the enforced move from Brussels to a site outside Dublin (in the constituency of the former Prime Minister, John Bruton). So there is no sense of any central police force capable of supervising the kind of assured and even implementation of EU law that my constituents call for.

Secondly, there is a feeling that this situation is bound to get worse with the enlargement of the EU. The countries entering will all have trouble applying and paying for the kind of legislation my committee deals with. In many instances, administration of environmental, consumer protection and public health legislation is being or is already devolved to regional administration in the applicant states. This will make the task of overseeing even implementation all the harder.

So we have to review the options that the EU has available to deal with this unsatisfactory situation. Will it simply plough on, with more legislation of the same type we have seen over the last 30 years? In the words of Commissioner Liikanene to my committee the other day: "From now on we will have to find a higher degree of motivation for what we do".

There is a sense in which the main areas of a successful environment policy have already been laid down: we have dealt with the worse aspects of air and water pollution; we are now grappling with a major change in our waste policy. We are realising that we have to pay for a better environment. There are however some very difficult decisions to come, most notably if we are to live up to our commitments under the Kyoto protocol. Unless significant new policies are implemented, virtually all the EU countries between now, 2010 and 2020 will see increases in carbon emissions. There is not much point in lecturing the Americans against that background.

But if we plough on, drawing up and trying to implement policies to cope with these new challenges, then we must move forward in a rather different mode than we have done so far. We must either be absolutely sure, through costed commitments, that all countries will be able to comply with these policies in much the same way – or that delays in implementation are recognised and permitted, and not simply seized in contradiction to a country's commitment. This is where I welcome the new proposals from the Commission on "impact assessment". In effect this is a commitment that the Commission will attach a price tag to its new proposals. Member States may dispute the price, but they cannot ignore that it is there. The British government is already publishing its own impact assessments on new Commission proposals, starting with the draft directive on waste electrical goods. (They are determined not to repeat the errors of the fridges episode). The next step is for the MEPs to attach impact assessments to the amendments we put down to legislation: without them we are in danger of being pinpointed as the most irresponsible part of the legislative process.

As we move on, I think we will see a far greater variety of EU approaches to problems than we know so far, where our horizons are bounded by the possibilities either of laws as regulations, or directives, or the much weaker recommendations. There will be new types of non-legislative agreement – perhaps voluntary agreements, brokered by the Commission with various sectors of industry. MEPs are rather allergic to these because they circumvent the democratic element, but they will be part of the story.

We will also probably see some reluctance to undertake more of the same rapidly increasing volume of new legislation that has created hostility to the EU – but environmental dangers and damage, and threats to public health and consumer protection, cannot simply be put wholesale on the back burner. More likely we will see the Commission preferring to bring forward more framework directives, leaving greater latitude to Member States on detailed implementation. British audiences tend to like that idea, until they realise that this would legitimise differences in application that might disadvantage companies in those EU states which are very law-abiding, and red-tape loving, highly regulated societies.

What will it be like on the Environment Committee in 20 years time? I hope it will not resemble very much the way we work now. We need to take far more time over a lot less law. MEPs are the only directly elected representatives whose job it is to debate, filter, and amend EU laws. National MPs' consideration of EU law influences nobody – not even, let us be honest, national ministers. Because of this, the speed with which MEPs deal with current legislation simply will not do: often we have 15-16 directives under discussion in one three-day meeting. If we are the only effective democratic filter and long stop then this cavalier and "seat of the pants" approach damages our reputation, and it will be irresponsible to replicate it in a larger European Union. In 2020, or sooner, MEPs should have a diet of 2 to 3 directives in each two to three day committee meeting, and should spend as much time reviewing what has happened to laws adopted as they do in adopting new laws.

I have tried to initiate this change of direction. Events are helping me, as countries back away from taking on new burdens that they feel the applicant countries will manage to evade. It is uphill work, and it goes against the grain (people want to look at new laws, reviewing old ones is much less interesting) but at least I can say that I have turned the wheel on the Cunarder, even if the ship takes a long time to answer to the wheel.