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The environmental case for Europe: Britain's European environmental policy

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**The Environmental case for Europe: Britain's
European environmental policy**

by

Andrew Jordan

CSERGE Working Paper EDM 06-11

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Abstract:

When Britain joined the European Union in 1973, virtually all aspects of its environmental policy were determined at the national level within Britain. Thirty years on, the policy and political landscape of environmental politics has changed beyond all recognition. Over recent years, EU environmental policy has emerged as one of the best known and most rapidly developing areas of EU activity. The purpose of this paper is to inform a much wider public debate about Britain's future role in the EU by examining what the EU has done for Britain in the environmental sphere, and in turn what Britain has done (and can do) for the EU. In so doing it presents an *environmental* case for Britain involving itself more fully and more proactively in the development of the EU. Drawing on the history of British-EU environmental affairs since 1973, it demonstrates that if Britain wants to maximise its control over international environmental affairs and master its own, domestic environmental destiny, it needs to operate within the central framework of the EU. Part Two explains the advantages of dealing with environmental problems at a European, as opposed to a national level. Part Three briefly explains the historical development of EU environmental policy and explains why the EU has developed an environmental policy when its original mission was to create a single market. Part Four explains the origins and continuing development of EU environmental policy, and Part Five briefly describes how EU environmental policies have affected Britain since 1973. Part Six assesses how successful EU environmental policy has been, and Part Seven discusses a number of new challenges that now need to be tackled if the EU is to build upon its pre-eminent position in domestic and international environmental affairs.

Keywords:

Britain; European Union; environmental policy; governance; Europeanization; sustainable development; enlargement

1. INTRODUCTION

When Britain joined what was then known as the European *Economic* Community (EEC) in 1973, virtually all aspects of environmental policy were determined at the national level within Britain. Thirty years on, the policy and political landscape of environmental politics has changed beyond all recognition. Over recent years and particularly since the 1992 United Nations 'Earth summit' in Rio, EU environmental policy has emerged as one of the best known and most rapidly developing areas of EU activity (Jordan 2005). Of all the areas in which the EU has legislative powers, the case for a shared, European response to environmental problems enjoys particularly strong support among the 450 million people who currently live in the twenty five member states. Whereas in 1973 the EU saw the environment as being wholly subsidiary to the functional requirements of creating and sustaining a single market in goods and services, environmental protection is nowadays widely regarded as an objective worth fighting for in its own right. The environment has in turn emerged out of the political shadows to become an important policy sector, which now influences other, much older and better established areas, such as agriculture (namely the Common Agricultural Policy), fisheries and regional development. In the 1999 Amsterdam Treaty and the 2001 Götenburg summit in Sweden, EU leaders recognised the environment for the first time as a policy area of equal political importance to the economic and social sectors.

In spite of early and widely shared assumptions to the contrary, the startlingly rapid development of EU environmental powers has comprehensively transformed national environmental policies and politics in Britain. In 2006, virtually all of the most important national environmental policy decisions are taken on the basis of negotiation within the institutions of the EU. Britain's environmental policy has, in effect, become part and parcel of Europe's environmental policy through a continuing process known as *Europeanization* (Bache and Jordan, 2006; Jordan, 2002; Jordan and Liefferink, 2004). Europeanization has provided British policy with greater external discipline and pulled it much closer into the European mainstream, raising national environmental standards and opening up decision making systems that were once shrouded in secrecy. On the one hand it has spurred environmental improvements, while on the other it stops governments from backsliding under concerted pressure from economic interests.

The EU's growing influence has not, however, completely robbed Britain of its ability to act independently of other EU states on environmental matters. In fact, by pooling its sovereignty with other member states, British authorities have secured the power to exert much greater influence on environmental policies in other member states. The UK also lends its weight to the greater negotiating strength of a combined EU position in international environmental negotiations such as those on climate change. This ever-changing combination of opportunities and constraints created by Europeanization, allows the member states to address environmental problems such as climate change, ozone depletion, river pollution and acid rain that span national borders and cannot be satisfactorily addressed by states acting independently of one another.

Nowadays, the EU is a basic fact of life for many of those who actively negotiate policy in Brussels or who are charged with implementing it at a more local level within Britain. Unlike some other policy areas, all the mainstream political parties in Britain broadly accept that the environment is rightfully a matter for EU-level action. Ministers and civil servants regularly spend long periods in Brussels. Parliament, too, devotes a great deal of its time to scrutinizing new EU laws. Various other stakeholders including environmental pressure groups and industry associations have adjusted to the Europeanization of policy making by opening sub-offices in Brussels. There is also plenty of hard opinion poll evidence to suggest that the British public feels comfortable with the EU's assuming a greater role in this area of domestic affairs. In fact, survey after survey undertaken by the European

Commission reveals that the British public places *more* trust in the EU to protect Britain's environment than the British government, British politicians or British industry. A very recent Eurobarometer¹ survey revealed that 64% of the public believe that environmental decisions should be taken at a European level, and 87% feel that the environment should be one of the EU's top priorities.² Significantly, the British public saw environmental issues as the third most important political priority for EU attention after securing international peace, and tackling crime and drugs.

However, the overwhelmingly positive influence that EU membership has had on the British environment often goes unreported in the mainstream media. One of the reasons is that many EU policies (known as Directives) have to be transposed into national implementing legislation, so their full origin is not always immediately apparent even to those that implement it. Another is that British politicians often like to blame the EU when things (not all EU-related) go badly, but to claim the political credit when EU policies work. Finally, in a world dominated by simple, media 'sound bites', British environmental pressure groups struggle to explain the precise nature of the EU's involvement. Consequently, there is very little informed public discussion of what the EU has done for Britain since 1973, and in turn what Britain continues to do to shape the future course of EU environmental policy. This effectively robs the public of an opportunity to engage in a balanced discussion of the advantages and disadvantages of deeper European integration, enlargement or indeed monetary union.

The purpose of this paper is to inform a much wider public debate about Britain's future role in the EU by examining what the EU has done for Britain in the environmental sphere, and in turn what Britain has done (and can do) for the EU. In so doing it presents an *environmental* case for Britain involving itself more fully and more proactively in the development of the EU. Drawing on the history of British-EU environmental affairs since 1973, it demonstrates that if Britain wants to maximise its control over international environmental affairs and master its own, domestic environmental destiny, it needs to operate within the central framework of the EU. In the past, it tried unsuccessfully to operate at the margins of European debate but this did great harm to its political reputation, robbed it of the huge economic benefits that flow from higher environmental standards and denied the British public of an opportunity to enjoy the same high standards that existed in other countries.

The remainder of this paper is structured as follows. Part Two explains the advantages of dealing with environmental problems at a European, as opposed to a national level. Part Three briefly explains the historical development of EU environmental policy and explains why the EU has developed an environmental policy when its original mission was to create a single market. Part Four explains the origins and continuing development of EU environmental policy, and Part Five briefly describes how EU environmental policies have affected Britain since 1973. Part Six assesses how successful EU environmental policy has been, and Part Seven discusses a number of new challenges that now need to be tackled if the EU is to build upon its pre-eminent position in domestic and international environmental affairs.

¹ European Commission (2002c). Eurobarometer reports on public attitudes to various EU-related issues have been regularly produced by the European Commission since 1973.

² European Commission (2002d).

2. WHAT ARE THE BENEFITS OF A EUROPEAN ENVIRONMENTAL POLICY?

There are at least seven advantages of addressing environmental problems at a European level:

- *Transboundary problems can be better addressed at the European level.* ‘The environment knows no frontiers’ was a popular slogan in the 1970s, when the EU first came under sustained political pressure to develop environmental policies of its own. For many environmental problems, that statement is as true today as it was then: member states simply cannot address issues such as climate change, the trade in endangered species or air pollution on their own – they have to collaborate and the EU provides an effective mechanism for developing joint approaches that deal with the national and regional elements of an environmental problem at the same time. Even problems that may, at first blush, appear to be fairly parochial (e.g. the noise from lawnmowers, car exhaust emissions or the quality of bathing water at beaches), upon further reflection have some cross-border dimension, such as trade or the movement of tourists.
- *By harmonising standards in Europe, the EU has helped to prevent differing state practices from creating barriers to trade.* In turn, this has allowed environmentally ambitious states to adopt standards safe in the knowledge that they will not be unfairly undermined by less ambitious states. Ratchet-like, this process has gradually raised national environmental standards across Europe up to the level of the most ambitious states.
- *The EU can act much more proactively than states acting alone.* The EU provides a forum in which national environmental Ministries are able to develop effective long-term strategies. More often than not, these Ministries are very weak and isolated in their respective national governments. But by acting together in the EU, they gain a much stronger voice at home and abroad, as well as much more political leverage to insist on higher environmental standards.
- *The EU’s involvement brings states closer together, allowing them to share information and benchmark one another’s performance.* EU standards are often pushed upwards by peer pressure or by one state emulating another. Very often, a small group of environmentally ambitious states will try to secure a ‘first mover advantage’ by ensuring that their domestic environmental standards are enshrined in EU legislation. Over the course of the last thirty years, the competition between what are sometimes termed environmental ‘leader’ and environmental ‘laggard’ states in the EU has successfully raised environmental standards further and faster than would have happened had states acted alone. Very often, severe short-term electoral and economic pressures make it very difficult for national politicians to engage in long-term environmental thinking. In these circumstances, the European Commission - as the ‘guardian of the Treaties’ - plays an important role, as it is the Commission that retains the sole right to propose new policy measures (see below). It is also responsible for disseminating data on national levels of environmental performance and overseeing the enforcement of agreed measures.
- *EU environmental policy has helped to build national institutional capacity.* The EU has helped to strengthen national environmental policies even in those states (such as Britain, Denmark, the Netherlands and Germany) that already had fairly sophisticated protection measures in place when they became member states. Meanwhile less progressive states, such as Ireland, Greece and Portugal, have been able to adopt a comprehensive framework of environmental policies ‘ready made’ from the EU, without having to start from scratch. In these and other countries, the EU’s involvement has encouraged national governments to create national environmental departments, research and monitoring capacities that had previously been lacking.

- *The EU provides an institutional mechanism for achieving more equitable burden sharing.* There are many ways in which the EU strives to ensure that poorer member states are treated fairly. Firstly, the EU has created its own internal funds (e.g. LIFE, cohesion) (see below) to help less industrialised countries defray part of the cost of environmental improvement. Secondly, between 1997 and 2002, the EU's own 'bank' – the European Investment Bank (EIB) – made loans totalling 35 billion euros for environmentally related investments at the national level such as wastewater treatment and waste management facilities. The EIB has been by far the largest single external source of funding for the British water industry since privatisation. Thirdly, the EU also re-allocates the burden of complying with international environmental agreements between the member states based on their ability to pay and their historical responsibility. Finally, some Directives allow certain states extra time to comply with EU requirements, but the expectation always is that eventually *all* states will attain the same objectives, thereby promoting fair competition and environmental improvement for all.
- *The EU gives legal teeth to international environmental agreements and greater negotiating strength in international discussions.* As a party in its own right to many international environmental agreements, the EU has (in the case of climate change) been able to make them more ambitious and (in many other cases) more implementable at the national level. It is widely recognised that the outputs of the 2002 world summit on sustainable development in Johannesburg, would have been far weaker had it not been for the international leadership exercised by the Commission and the member states of the EU.
- *The EU has increased the provision and flow of information about environmental problems.* Many EU Directives specifically require states to monitor environmental quality and report back to the Commission. When the Commission routinely circulates this around the EU, it encourages greater transparency, increased public understanding of environmental problems and, contributes towards a greater sense of urgency, which often promotes the next phase of policy making. In 1990, the EU adopted a Regulation, which established a central, European Environment Agency (EEA) in Copenhagen, supported by a network of national information collection bodies known as 'EIONET'.
- *The EU acts as an external 'arbiter' in national disagreements.* National environmental pressure groups have successfully learned to use the European Commission and the European Court of Justice (ECJ) as 'higher' authorities in disputes with national authorities about the meaning of EU rules. In the past, the public and pressure groups were excluded from environmental decision-making and lacked the political and legal power to make states account for their environmental performance (see below). Crucially, the Court is widely regarded as an honest broker: every state has appeared before it at one time or another.
- *The EU has the capacity to ensure that environmental policies are properly implemented.* Although implementation in the EU is far from perfect (see below), the EU's involvement arguably adds legal discipline to the process of policy implementation. One of the great failings of much of the national environmental legislation developed after the Stockholm environment conference in 1972, was that very little of it was ever fully implemented. But EU environmental policy is somewhat different, because it is overseen by an independent, external body i.e. the European Commission. Disputes about the precise meaning of EU laws are settled by a politically neutral ECJ. On several occasions, the Commission (supported by British environmental pressure groups) has successfully taken the British government to the ECJ for its continuing failure to attain EU water standards. The EU now has the power to levy a daily fine on states that persistently flout its policies. Judging by the number of environment cases that are now coming before the ECJ, the Commission

is investing much more effort in ensuring the full and timely implementation of EU policies.

3. THE DEVELOPMENT OF EUROPEAN UNION ENVIRONMENTAL POLICY

The EU has played a pivotal role in securing peace, repairing war torn Europe and generating economic prosperity. However, the EU's main founding Treaty (The Treaty of Rome, 1957) makes no mention whatsoever of environmental protection. At that time, the 'European experiment' was primarily regarded as an exercise in promoting economic growth by encouraging greater trade in Europe. But over the course of the last 50 years, the EU has come to realize that economic integration demands active cooperation across a whole array of other 'subsidiary' policy fields, such as the environment, human health and worker protection. Thus, many of the first environmental measures were adopted for products traded across borders such as chemicals and cars. The underlying assumption here was that widely different standards might create barriers to trade and distort competition by providing 'dirty' states and/or companies with an unfair competitive advantage. Another priority in the early, formative years of EU environmental policy was protecting human health, which can be seen in the adoption of drinking and bathing water rules. Starting in the 1960s, important environmental laws were also adopted in the chemical and nuclear industries.

3.1 Phases of Development

Throughout the 1970s, the EU began to move steadily away from this rather narrow, economically dominated conception of environmental policy, to embrace a much wider array of environmental problems. As public opinion throughout Europe turned steadily 'greener', the EU came under increasing pressure to protect environmental assets such as rivers, lakes, forests and animal species for their own, intrinsic value. Because states share common seas, rivers and an atmosphere, it was self evident that the solution to these problems would, in large part, have to be negotiated supranationally i.e. in Europe. New European institutions, an environmental programme and data collecting facilities were all created to underpin and inform these activities.

EU environmental policy making accelerated in the 1980s when, first Germany, and then other states, began to campaign for increasingly stringent protection measures. As issues such as acid rain, marine pollution and toxic waste rose up national political agendas, the EU was drawn into expanding the scope of its environmental activities further and further beyond its economic origins. Many new environmental laws were passed in this decade, which conflicted strongly with settled traditions in Britain (see below).

The 1990s was a period of refinement and regulatory consolidation. The production of new items of major legislation began to decline and some older laws were revised as the EU turned its attention towards forcing states to implement the laws they had themselves adopted. Nonetheless, the EU continued to address emerging political issues such as climate change, genetic modification and the need for more sustainable waste management practices.

The major challenges in the 2000s look set to be several orders of magnitude more difficult than those facing the EU in the early 1970s when environmental problems were more obvious, and so easier to solve. Those remaining tend to be more complex, and include making human development within and outside the EU more sustainable, and addressing the multiple challenges of enlargement into central and Eastern Europe, where environmental protection has tended to be a low priority (see below).

3.2 Key Areas of Activity

Currently, there are around 300 major Directives and Regulations relating to environmental protection. These cover a wide variety of environmental and environmentally related problems.

Water was an important, early priority of the EU. Important, human health-dominated regulations were adopted to improve the quality of drinking water, and coastal and inland bathing waters, but other laws were adopted which sought to improve water standards for freshwater fish and shellfish. More recently, the EU adopted an ambitious Directive to improve the basic level of wastewater treatment across Europe. Beforehand, many states emitted partially or even completely untreated wastewater into the sea and ecologically sensitive inland waters. Very recently the EU adopted the water framework Directive, which aims to raise the quality of all surface waters to a 'good status' by 2015. Achieving this ambitious target will require substantial new investments throughout the 2000s.

In the 1970s and 80s, the EU's *air quality* policies mainly addressed polluting emissions from cars (e.g. nitrous oxide) and emissions from power stations (e.g. sulphur dioxide), which cause acid rain, but it also adopted far reaching Directives that set minimum levels of urban air quality. There are also hugely important EU laws that set minimum emission standards for waste incinerators and regulate the emission of a series of substances that can have serious health effects (e.g. dioxins) or that contribute to summertime smogs (e.g. nitrous oxides). The EU also has well established policies that tackle polluting emissions that deplete the ozone layer and contribute to climate change.

Waste was increasingly an issue in the 1980s. At first the EU adopted proposals that required states to set up comprehensive plans to deal with the generation of waste. The EU has a long term objective to control the disposal of particularly polluting substances such as asbestos, batteries and sewage sludge. It has also moved on to deal with the production and transport of more toxic waste, and the reduction, re-use and recycling of packaging waste. Many member states including Britain are in the painful process of improving their (generally low) rates of domestic recycling to comply with the terms of the 1999 Landfill Directive. This Directive is expected to have a very significant impact upon domestic waste practices in Britain. More recently, the EU has started to adopt legislation that implements the so-called producer responsibility principle (see below). For instance, new legislation seeks to encourage the producers of certain waste types (e.g. electrical waste such as computers) to be responsible for their safe disposal or recycling. A similar Directive on 'end of life vehicles' will require national authorities to increase the percentage of waste material from old vehicles that is re-used or recycled. All these initiatives should reduce the amount of waste material that is simply landfilled.

Another important area of EU activity is *nature conservation*. The two most important and well known Directives deal with the protection of wild birds and natural habitats, which are issues that British people feel very strongly about. There are also many other less well known conservation policies, such as those promoting the welfare of seals and whales, limiting animal hunting using leg hold traps, and safeguarding the welfare of zoo animals. Britain made a very positive contribution to the development of these policies, which are now providing much more powerful protection to important species and habitats than that previously offered by British legislation.

There are many *other areas* in which the EU is active including noise pollution, the use and release of Genetically Modified Organisms (GMOs), the labelling of organic products, chemicals and pesticides, land use planning (environmental impact assessment), access to environmental information, the disposal of vehicles, energy efficiency and the promotion of renewable energy.

Finally, the EU is also a very active player in the process of *international environmental standard setting*. Traditionally, international environmental agreements (which are the means by which states set themselves legally-binding objectives) were only ever signed by sovereign *states* and their enforcement was highly problematic given the absence of a world government to demand compliance. Although the EU is not formally a sovereign 'state', it

has gradually developed the power to enter into international agreements with sovereign states.³ These cover a wide variety of issues including nature conservation, marine pollution, ozone layer depletion and, perhaps most well known of all, climate change. It is important that the EU (i.e. the European Commission and the twenty five member states) is present at the international negotiating table because many agreements subsequently drive regional and national level policy making. More often than not the EU subsequently adopts its own internal environmental policies that are often stronger than international rules.

The EU's involvement therefore adds important, extra dimensions to what the twenty five member states can do together. For example, the EU's ability to negotiate as a united block, using a well-established system of inter-state consultation before, during and after negotiations, greatly increases the combined bargaining power of the member states in policy areas such as climate change and persistent organic pollutants. The EU's ability to deliver twenty five ratifications at the international bargaining table also accelerates the normally slow entry into force of new international agreements. The EU is also able to develop complex internal arrangements to distribute the financial burden of compliance more equitably and efficiently across the twenty five member states, as in the case of climate change and acid rain. By translating international commitments into EU law, the EU also adds legal and political teeth to international agreements. And finally, the EU has considerably more powerful enforcement mechanisms (see above) than those held by the United Nations, the guardian of most international agreements.

3.3 Taking Stock

To summarise, the EU is now actively involved in a very wide array of environmentally related policy areas. Although securing the operation of the single market and safeguarding human health remain important priorities, the EU's activities now encompass measures that protect environmental assets such as fish, plants and habitats for their own intrinsic value. This shift is required not only because the public increasingly expects such protection and the environment's increasingly evident contribution to the quality of human life, but also to ensure delivery of sustainable development (see below).

Because of legal constraints imposed by the member states, the EU has tended to rely heavily upon regulation to achieve its objectives. Nonetheless, it has been criticized in the past for what some perceive to be an excessive, almost unquestioning reliance upon regulation. Increasingly, therefore, the EU is experimenting with and, in some sectors, actively adopting, so-called 'new' or 'softer' policy tools such as voluntary agreements with polluters, eco-labels and market-based instruments (e.g. emissions trading schemes and eco-taxes) (Jordan *et al.* 2003), though regulation is likely to remain the mainstay of EU policy.

As a result of the rapid development of supranational power in this area, the EU has gradually replaced the twenty five member states as the primary source of environmental policy in Western Europe, and the main focus of environmental politics and policy making activity. Policy makers often say that the EU now accounts for between 80 and 90% of new national legislation. Whatever the precise amount, the rate of increase since the early 1970s (when the amount was effectively 0%) is startling, given that the EU started out in life mainly as an *economic* trading bloc of six states.

The EU has not, of course, exclusively been a force for environmental good. Its agriculture and transport policies have done a great deal to exacerbate environmental damage, but so too have national industrial and economic policies. The EU's trade policies have also

³ In UN parlance, the EU is (uniquely) classified as a 'Regional Economic Integration Organisation' and has fought for – and won – the right to participate fully in negotiating international environmental issues.

undermined sustainable development in the developing world, but the EU is now taking active steps to address these and other contradictions (see below). None of these aspects of the EU undermine the case for common environmental policies; if anything, they make that case considerably stronger and more urgent.

4. HOW IS EU POLICY GENERATED?

4.1 The Absence of an Environmental ‘Masterplan’

Far from there being a grand EU ‘masterplan’ to Europeanize large swathes of British policy, most aspects of EU environmental policy have in fact developed in a very *ad hoc* and incremental manner. To a degree this is an inevitable function of the twice-yearly change in EU Presidency, with each successive member state holding the chair bringing its own political emphases to bear on the proposals that are brought forward. Although the Presidency system has its critics, it does help to push through policies which might otherwise be blocked in the decision making system and it forces the country holding the chair to understand the negotiating position of other states. In the long term, this has helped to build trust and shared understanding.

The EU does, of course, try to plan ahead using action plans, strategies and other planning techniques, but is also forced to react to unforeseen events (see below) and urgent demands from member states and other international bodies to take certain actions. In the 1980s, the rate of adoption of new policies increased very rapidly, but the overall direction taken by the EU has never been completely determined by the Commission, a single state or group of states. There was, as noted above, certainly no mention of environmental legislation in the original Treaty of Rome, and environmental protection was barely discussed in the debate about Britain’s entry into the EEC. In fact, environmental protection was not formally inserted into the founding Treaties until national leaders signed the Single European Act in 1985. Since then, the EU’s legal commitment to achieving environmental protection has been further strengthened by the Maastricht and Amsterdam Treaty amendments. The closest thing that the EU has to an environmental ‘mission statement’ are its environmental action programme. That six of these have been formally adopted since 1973 (each an evolution of its predecessor), demonstrates the EU’s capacity to respond to the increasingly precise demands for environmental improvement that come from better-informed public pressure on political leaders, while retaining a series of longer-term objectives.

4.2 The Origins of EU Environmental Policy

So, where does EU environmental policy originate? Formally speaking, the European Commission is responsible for issuing proposals for new legislation. In the past, these proposals had to be formally adopted by national environment ministers meeting in the EU’s Council of Ministers – the ‘Environment Council’. However, in recent years the European Parliament influence has grown significantly, to the extent that it now has joint powers of ‘co-decision’ covering most new environmental policies. However, that does not tell us where the ideas underpinning new EU environmental policies come from. Most EU policies can be traced back to one or more of the following triggers.

4.3 EU Institutions

The impetus for new policies often comes from the Commission. Some of its proposals are initiated internally, but the vast majority are a response to outside pressures from other EU institutions, namely the Environment Council, the European Parliament and the European Council (i.e. bi-annual meetings of the heads of the EU states). In the past, rulings by the ECJ have also forced the Commission to propose new policies.

4.4 Member States

Many proposals can be traced back to pressures from a particular member state seeking to shape EU policy in the image of its national policy. For example, in the early 1980s Germany pushed the EU to tackle the causes of acid rain, and in the 1990s Sweden urged a wide-sweeping review of chemicals policy. The Germans also pushed the EU to adopt stricter laws on packaging waste in the early 1990s, whereas Britain has successfully advanced its own agenda for European policy including more integrated approaches to

pollution control and voluntary agreements between industry and regulators. Using the EU as a means to achieve national environmental goals has one important advantage for national politicians: it deflects potential political opposition from states to the Commission.

4.5 Regulatory Revision

Many recent proposals (e.g. on local air quality (1996) and water quality (2001)) are part of a concerted attempt to consolidate existing Directives, or update old Directives (e.g. on drinking and bathing water) in the light of new scientific and technical understanding. When EU environmental policy reached a more mature stage in the 1990s, this sort of activity became increasingly important.

4.6 International Agreements

International commitments, some of them negotiated by the EU, often prompt the EU to act. For example, the 1987 Montreal Protocol, and the 1992 Climate Change and Biodiversity Conventions have given a strong push to EU efforts to tackle ozone depletion, climate change and biodiversity loss respectively. Going back still further, many of the EU's older water pollution and nature conservation laws can be traced to previous commitments made by member states at the international level.

4.7 Accidents and Crises

Disasters and crises often provoke an urgent political desire for new policy responses. For instance, the 1974 accident at a chemical plant in Flixborough (Britain), followed in 1976 by another at Seveso (Italy), prompted the EU to adopt legislation (the 'Seveso Directive') to prevent major accidents and to limit the consequences of those that do occur. When barrels of waste collected at Seveso went missing, the Commission came under pressure to adopt (in 1984) regulations controlling the trans-frontier shipment of waste.⁴

4.8 Industry Pressure

Many environmental rules, especially those relating to products traded across borders, often arise not from the Commission or national environment ministries, but as a product of strong lobbying from industry. Industry also plays an important part in shaping other actors' proposals and fine tuning them. Good examples can be found in the area of chemicals production and car emission regulation. Although industry generally dislikes stringent environmental regulation, it tends to prefer a 'level playing field' that inhibits 'dirty' industries from gaining an unfair competitive advantage over 'cleaner' ones. More recently, there is evidence of enlightenment: companies and indeed entire industrial sectors recognising that being 'eco-friendly' is a powerful selling point for their products.

4.9 Environmental Pressure

Finally, long-established environmental pressure groups in Britain such as the Worldwide Fund for Nature (WWF), the Royal Society for the protection of Birds (RSPB) and Friends of the Earth have learned to target the EU policy process as a means of raising national standards. These groups have been very successful at lobbying the EU to adopt nature conservation policies and to 'green' 'non' environmental sectors such as agriculture and transport. Many of them are also very actively involved in the European Environmental Bureau – an umbrella body representing environmental pressure groups in the EU.

4.10 Guiding Principles

The development of new policies can be very unpredictable, often because of the way that the EU institutional process is configured – i.e. it deliberately pits those proposing EU environmental policy (the Commission) against those that might wish to oppose some or all of it, namely the member states. Nonetheless, the resulting compromises – for which the EU

⁴ The Basel Convention on the Transboundary Movement of Hazardous Wastes and their Disposal emerged in 1989, strengthened by EU proposals.

is famous – most frequently represent environmental steps forward from *business-as-usual*. The entire policy making process is not, of course, completely random, as policy makers are guided by a number of fundamental principles which most of the actors involved agree upon.

These principles are as follows:

- *Attribution*: the EU shall only act within the limits of the powers conferred upon it by the Treaties. As the Treaties can only be formally adopted unanimously by member states, this is tantamount to saying that the EU can only act in those areas formally sanctioned by states.
- *A high level of environmental protection*: the EU shall aim to achieve a high level of environmental protection taking into account the diversity of situations in the various parts of Europe.
- *Polluter pays*: where possible polluters should be made to pay for the damage they cause.
- *Prevention*: EU policy should aim to prevent problems from occurring rather than dealing with their effects.
- *Precaution*: where there is a preponderance of information militating in favour of action, a lack of full scientific evidence of harm to the environment or to human health is not a valid reason to delay.
- *Proximity*: environmental damage should be rectified at source.
- *Producer responsibility*: those making products should be responsible for minimising their environmental impact throughout their entire lifecycle. In practical terms this means completely reducing impacts through better design as well as offering ‘take back’ schemes at the end of a product’s life to promote recycling and re-use.
- *Costs and benefits*: EU policy should be based upon an assessment of the costs and benefits of acting, or failing to act.
- *Subsidiarity*: environmental policy decisions should be taken at the lowest effective level (i.e. the EU shall only act where there is a significant advantage over member states acting separately)
- *Proportionality*: the EU shall not go beyond what is reasonable to achieve the objectives of the founding Treaties, and the environmental remedies proposed shall be in proportion to the damage or potential damage liable to be caused.
- *International co-operation*: the EU should, where necessary, co-operate with relevant international organisations and non-EU states to address regional and international environmental problems.
- *Environmental policy integration*: environmental protection requirements must be integrated in the development and implementation of ‘other’ EU policies such as agriculture, energy production and transport to ensure sustainable development.
- *Sustainable development* is defined by the United Nations as human development “that meets the needs of the present without compromising the ability of future generations to meet their own needs” (see below).

5. HOW HAS EU POLICY AFFECTED THE BRITISH ENVIRONMENT?

5.1 British Isolationism and Self Satisfaction

When Britain joined the EU in 1973, it felt confident about the way in which it addressed its environmental problems and saw very little or no role for the EU. After all, Britain effectively invented modern industrial pollution. It was one of the very first countries in the world to develop a comprehensive suite of national environmental laws and established the world's first environment ministry in 1970. To be fair, Britain was never totally isolationist in its dealings with the rest of Europe – it enthusiastically participated in many important international environmental agreements – but it undoubtedly felt very strongly that it should concentrate on its own, national and local environmental problems in a way that suited its domestic economic interests. On the first page of a 1978 guide to British policy, the Department of the Environment explained to foreign observers that Britain was “at a comparatively advanced stage of development and adoption of environmental protection policies.”⁵ The message transmitted to Brussels was that Britain did not need the EU's help. Moreover, ministers and civil servants assumed that when common policies were adopted in Brussels they would have no impact on Britain, because British policies were intrinsically superior to anything that the EU could deliver.

As in many other areas of British-EU affairs, little conscious effort was made proactively to shape EU policies so that they fitted its national interests. The underlying assumption was that European policies would never amount to much, and if they did, they would only ever complement, but seldom exceed, British domestic requirements. There was a general belief that Britain did not – to quote the title of this pamphlet – have what could be termed a ‘European’ environmental policy. It had a national and an international environmental policy; but had no need of a *European* environmental policy. This way of thinking fitted very strongly with the worldview of powerful national politicians like Mrs Thatcher, who suggested that the EU was (and should always remain) an *economic* union of sovereign states.

This feeling of quite self-satisfaction was not entirely justified however. Although Britain did have comparatively advanced nature conservation policies, its pollution control policies in the 1970s lagged well behind those of the environmental ‘lead’ states of the EU. By the late 1980s, Britain found itself trailing badly both nationally and internationally on environmental matters. It failed to invest to improve water and air quality, and continued to express doubts about shared environmental problems such as acid rain and marine pollution, long after other EU states had agreed to adopt mitigating measures. Other member states regarded very well established British practices such as dissipating pollution into the atmosphere and the sea using tall chimneys and long pipes, as crude, ineffective and, above all, profoundly ‘un-European.’ When British environmental groups claimed that Britain was the ‘The Dirty Man of Europe’, they found a very receptive audience in states that had an equally long, but different, history of seeking to remedy environmental problems at source.

5.2 The EU: A Powerful Force for Domestic Progress

In the last twenty years the EU has emerged as a strong force for domestic change in Britain. On issue after issue, the EU has given domestic events a decisive push, although all too rarely does it gain the full credit it deserves. Although Britain would not have stood still had it been outside the EU, EU membership has undoubtedly pushed domestic policy further and much faster upwards than it would otherwise have gone.

More specifically, the EU has:

- *Acted as a major force for higher environmental standards in Britain.* Drinking and bathing water is cleaner today because of the EU's involvement. Important species and habitats are more strongly protected because of EU policy. Rivers and the sea

⁵ Quoted in Jordan (2002, 31).

around Britain are cleaner, emissions of polluting substances into the air are much reduced, and the priority given to environmental factors in the land use planning system is much stronger. In the process, Britain has become less isolated in the way it approaches problems. So, instead of exporting pollution to other countries, its policy increasingly is to contain and where possible prevent it. The irony is that this is often a cheaper and more efficient option in the long run anyway, promoting innovation in clean technologies and waste minimisation techniques. Looking to the future, national rates of domestic waste recycling will have to rise because of EU pressures that have highlighted the long-term undesirability of landfilling waste: this in turn will pressure manufacturers to economise on excessive product packaging. Similarly, new EU rules that deal with the safe removal and disposal of old cars has already resulted in manufacturers significantly increasing the recyclability of their products – which should reduce their cost and the amount of waste that has to be landfill.

- *Made national environmental policy more open and transparent.* In the past, many important British environmental policy decisions were made secretly, with very little public involvement. By contrast, EU policies tend to embody clear standards and timetables, and strict legal definitions, which leave much less room for ‘political’ fudging and much more scope for stakeholder involvement. Over time, continental European approaches have steadily replaced the administrative ‘rules of thumb’ and informal ‘gentleman’s agreements’ with polluters that were an important, if unfortunate, element of British policy.
- *Increased scientific monitoring and the provision of public information about the state of the environment.* Many EU Directives contain detailed rules about the monitoring, analysis and the supply of data that will show if environmental objectives are being reached. The Commission and the EEA routinely use the data collected by national authorities to benchmark national practices, spurring environmental ‘laggards’ to catch up with the lead states, and encouraging a much wider public debate about the real state of the environment.
- *Empowered national environmental groups.* The EU acts as an external arbiter or a ‘higher authority’ to which the public and environmental pressure groups can have recourse. This external check on state power has been used to particularly good effect by pressure groups such as the RSPB, who have sought to force the British government to protect important wildlife sites from economic development. Many individuals, similarly, have written directly to the European Commission, citing erroneous or non-application of environmental impact assessment legislation in land-planning cases such as the building of new roads.
- *Provided a forum for sharing environmental best practice.* Through their involvement in the EU, states have been able to import good ideas from other states as well as export their own, domestic ‘best practices’ to other countries. EU environmental policy is thus an amalgam of national environmental approaches. It most certainly is not a ‘one size fits all’ approach, which is determined centrally in Brussels and then implemented inflexibly at more local levels. One reason why the EU employs ‘framework’ legislation is specifically to define standardised goals, but to encourage the use of local capacities and skills to achieve more specific objectives.
- *Provided a constant, external force for environmental progress.* National environmental policy in Britain has always been subject to the vagaries of the political and economic cycle. However, the emergence of EU policy has helped to nurture and maintain environmental progress at the national level even during periods (e.g. economic recessions) when it has traditionally slipped down domestic political agendas.
- *Allowed other states to achieve a better understanding of British practices.* Through their long-term involvement in the EU, continental European states have been able to better understand why Britain initially adopted a different approach to problem

solving. In recent years, continental states have been able to import some of the Britain's best practices such as more integrated approaches to pollution control, water catchment planning and habitat conservation.

6. HOW SUCCESSFUL HAS EU ENVIRONMENTAL POLICY BEEN?

The EU has been remarkably successful at generating an impressive portfolio of environmental powers, but how successful have they been? That the EU has managed to develop *a coherent portfolio of policies* should be regarded as a great success, given the absence of an enabling article in the Treaty of Rome and the opposition voiced by many member states (including Britain) during the 1970s. Today, there are very few who question whether the environment is a legitimate area for EU intervention. This in itself represents a considerable achievement, although there are several other criteria against which EU policy could be judged.

6.1 Raising Public Awareness

EU policies have undoubtedly *raised national environmental standards right across Western Europe*. The EU's effect is arguably much more pronounced in some of the economically poorer states such as Portugal, Greece and Ireland, but the EU has undoubtedly made a sizeable imprint upon national policies in countries such as Germany, The Netherlands and Denmark that are normally thought of as environmental 'leaders'. If the Commission's Eurobarometer polls are to be believed, EU environmental policy has also generated *huge public support* (see above). A recurring finding of these polls is that national publics - including Britain's - place greater trust in the EU to deal with environmental problems than their own national governments. One might also observe that a new, EU-wide 'environmental democracy' has evolved, given the prominence of lobbying groups from across the EU with the capacity to affect policy development and the direct access for complaint that Brussels provides. Those who believe that Britain should pull out of the EU will not only find themselves in opposition to this new democratic movement, but also imperil many of the environmental achievements of EU membership discussed above. By operating outside the EU, Britain will also find itself in a much weaker position to achieve its own environmental and sustainability goals, at home and, increasingly, abroad.

6.2 Increasing Transparency and Public Understanding

The public often wrongly perceives the EU to be a large, opaque and inflexible bureaucracy. But if we look closely at what the EU actually does rather what it is rumoured to do, it is obvious that it has in fact made British environmental policy considerably more open and transparent. It has also generated much more information about the real state of the environment, and informed debate by disseminating it widely among the public. It is often forgotten that the EU adopted a Directive on the freedom of access to environmental information a full eight years before the international community adopted the 1998 Aarhus convention on environmental information.

6.3 Solving Environmental Problems?

However, many people will rightly regard a clear improvement in environmental quality as the most important acid test of the EU's activities. Here, the evidence is difficult to interpret, not least because the pressures on the environment have not remained the same - and in many respects have greatly increased - since the early 1970s. In its 1999 panoramic assessment of Europe's environment, the EEA (1999, 7) reported that there had been "some progress, but a poor picture overall." Some problems (e.g. ozone depletion, acidification, and local water quality) have eased considerably, but many others remain and some have arguably got worse (e.g. the overall generation of greenhouse gases from transport - less emissions per vehicle, but far more vehicles -the loss of natural habitats, and the production of domestic waste).

Recently, the European Commission (1999, 21) summarised the impact of three decades of EU environmental policy making thus:

“environmental policy has had some success.... However... it will not be able to keep pace with or account for the increasing aggregate demand for road transport, electricity, house or road building etc. Growth in these areas simply outweighs the improvements attained by better technology and stricter environmental controls.... The areas of particular concern [are] road transport, energy production and use, tourism, the production and consumption of consumer goods, and intensive agriculture.”

The Commission argues that the EU should now implement the principle of environmental policy integration (see above) in order to tackle the root causes of environmental damage and develop society more sustainably.

6.4 Gearing Up for Sustainability

Increasingly, policy experts are recognising that the EU's aim should not be to produce more and more environmental policy, but to see how to fit environmental requirements better with social and economic goals, in such a way as to ensure inter-dependent success in all three areas. The concept that is often used to refer to such a process is 'sustainable development'. The European Commission recently published a wide-ranging strategy to implement sustainable development in the EU. It suggested that sustainable development:

“offers the European Union a positive long-term vision of a society that is more prosperous and more just, and which promises a cleaner, safer, healthier environment - a society which delivers a better quality of life for us, our children and for our grandchildren. Achieving this in practice requires that economic growth supports social progress and respects the environment, that social policy underpins economic performance, and that environmental policy is cost effective” (European Commission, 2001a, p.1).

Sustainable development sounds a highly laudable goal, but its implications for practical, everyday policy making are difficult to comprehend. However, it is broadly agreed that sustainable development has several core principles:

- The pursuit of *economic growth, societal welfare and environmental protection as mutually supporting goals.*
- An explicit attempt to achieve *inter-generational equity* i.e. current decisions should take account of the well being and interests of future generations.
- *Social justice*: all people have a right to a healthy and clean environment in which to live and thrive. Meeting the basic needs of the world's poor should be an immediate priority, because deep economic, social and environmental inequalities destabilise regions and threaten global security.
- *Protection of the non-human environment*: the environment should be protected for its own sake, which means respecting environmental limits to economic growth. Active steps should be taken to reduce the consumption of non-renewable resources, to set limits that ensure adequate conservation, and to prevent further depletion of biodiversity.
- *Effective public participation*: sustainable development cannot occur through regulation alone. Steps must be taken to encourage broader participation and a wider acceptance of responsibility, so as to harness the interests and creativity of all the relevant stakeholders.

7. NEW CHALLENGES AND NEW OPPORTUNITIES

After three decades of spectacular growth and much successful progress, EU environmental policy finds itself at a critical stage in its relatively short life. Much has been achieved, not least in Britain, but important challenges remain, not least integrating environment, with the two other components of sustainability - the economy and society. Sustainable development both within and outside Europe provides a positive long-term vision for the EU, but putting it into practice will require unprecedented levels of cooperation between states, EU institutions, regional and local authorities, industry and the public at large. This in turn demands: more joined up policy making in Europe; a more equitable and sustainable relationship with the rest of the world; and more effective policy implementation. Enlargement is now providing a key test of the EU's readiness to rise to these three challenges.

7.1 More 'Joined up' Environmental Thinking

The EU has adopted sustainability as its long term aim but the notion of ever achieving it is perhaps erroneous. Rather, sustainability should be seen as a *process* of change rather than a specific end point. The general idea is to ensure that the key notions that underpin sustainability also underpin its vision of an integrated approach to further economic, social and environmental progress (see above). To pursue sustainability, greater efforts must be made to integrate an environmental dimension into the development of policies for agriculture, transport and energy sectors that tend to drive unsustainable development. In the past, EU environmental policy has struggled to address the environmental impacts created by these sectors, especially the Common Agricultural Policy (CAP) and the EU's common transport, regional and fisheries policies. But there are very welcome signs that a more 'joined up' approach to policy making is beginning to emerge in the form of the so-called 'Cardiff process' of sectoral target setting and reporting. Only time will tell whether this process is a politically expedient illusion or a real change of direction.

7.2 Behaving Sustainably at Home and Abroad

The Commission is beginning to think about how it can implement sustainable development beyond its own borders. A major priority is the developing world. As the world's largest donor of development aid, the world's biggest trading bloc (accounting for 20% of world trade in goods) and a major source of foreign direct investment, the EU is rightly taking an international lead in meeting this important long term challenge (European Commission, 2001b; 2002a). Here again, the effective integration of environment into development policy has been and remains the long-term aim. Currently, however, the EU's trade policies are not aligned in a way that supports sustainable development in the industrialising world, and its agriculture policy distorts free trade. Therefore, much more work remains to be done.

7.3 Strengthening Implementation

Finally, the Commission is now devoting more of its resources to improving the implementation of EU policies at the member state level. The quality of implementation varies from country to country and sector to sector, but is generally regarded as the 'Achilles heel' of EU environmental policy. Britain's record is better than most, but is not unblemished. The underlying problem is that implementation depends on what happens inside each state, as member states are formally responsible for ensuring compliance. The EU institutions are in a subservient position. Hard choices need to be made by states because until they empower the EU with greater oversight and powers of compliance, EU environmental policy is always likely to suffer from a sizeable 'implementation deficit'. As pressure builds to upgrade implementation, Brussels is already responding by devising new approaches – e.g. implementation guidelines, closer direct relations with member states just after formal agreement on a proposal; a forum for exchange of implementation best practices - to reduce the communication black-out between the time Ministers agree a new measure, and the achievement of the objectives the measure sets out to attain.

7.4 EU Enlargement: An Experiment in Sustainability?

The EU is well placed to lead the international community in the pursuit of sustainability by demonstrating that it can move decisively towards sustainable development within its own borders. In many ways, the accession to the EU of ten new states in May 2004, has provided a living experiment in how a collection of states with very different recent histories and physical environments, political objectives and levels of economic prosperity, can together develop a beneficial path towards a broadly sustainable future. The fact that many of the new entrants have degraded environments, weak environmental protection systems and relatively limited resources has made the environment a particularly challenging sector to agree during the enlargement negotiations that started in 2000.

The EU is providing the new entrants with substantial financial assistance through programmes such as PHARE⁶, LIFE⁷ and ISPA⁸, but the total cost of complying with EU environmental legislation has been estimated to be around Euros 80-110 billion (European Commission, 2002b) over the long term. However, the candidate countries realise that implementing EU rules will generate considerable national and local benefits, in terms of better human health, cleaner water and improved air quality. The candidate countries have been told that they must implement the EU's existing policies as a basic pre-condition for entry. Rather than weakening current standards, the Commission has instead decided to allow the candidates extra time ('transition periods') to meet the most demanding EU standards in some clearly defined circumstances. The process of sectoral convergence will of course, need to be actively directed and managed long after the candidate countries formally become member states, so they too can enjoy the many benefits of EU environmental policy.

⁶ PHARE: 'Poland & Hungary: Assistance in Reconstruction of their Economies' – extended to 10 EU candidate states, including Bulgaria and Romania but excluding Malta and Cyprus.

⁷ LIFE: The Financial Instrument for the Environment. LIFE's current phase runs from 2000-4 in which EUROS 640 million is available to support projects which *inter alia*: contribute to the implementation of the Habitats Directive; demonstrate the value of promising new environmental technologies; build new institutional capacity in countries bordering the Baltic and the Mediterranean.

⁸ ISPA: 'Instrument for Structural Policies for Pre-accession'

8. LOOKING TO THE FUTURE

Britain has undergone a long and, at times, painful process of adaptation which has slowly brought it into line with the evolving norms of EU environmental policy. This process has, however, made British environmental policy stronger, more comprehensive and much more transparent. Britain is now a leading supplier of environmental products and services, many of which flow from EU environmental policy. Thus it has a strong vested interest in promoting further environmental progress at the EU level.

In recognising that Britain does have a *European* environmental policy, EU membership has provided the British with a means to engage in a process of transfrontier learning, whereby states first share environmental best practices amongst one another and, in turn, offer a powerful lead to other states and regional groupings wishing to emulate their recent environmental performance. With hindsight, many of the adjustment problems that emerged in the 1970s and 80s could possibly have been avoided had Britain worked actively inside the EU political system to mould EU environmental policy to suit its national interests, rather than standing outside and seeking King Knut-like to hold back the forces of Europeanization. British environmental pressure groups, government officials as well as businesses and other parts of civic society do now realise the benefits of 'thinking (and acting) European', and actively cooperate with other EU states in shaping the future direction of EU policy.

There are important lessons that can be learnt from Britain's experiences in this sector, which are pertinent to a number of live political debates in Britain today, most notably that concerning the single currency. The single currency is a potentially important tool for better managing the processes of globalisation and European economic integration. The UK as a participant in that currency, given the long history and stability of the UK financial sector over many decades, will add significantly to the standing of the euro globally. And, as in the case of environment, the high probability is that all EU member states will profit in the medium - to longer-term from the combined strength that 25+ national economies acting in unison will provide.

However, the links between the single currency and the question of sustainability within and outside the EU have not received the in depth analysis that many British environmentalists would like. This is perhaps because the main debate about increased efficiency – and thus less stress on the environment – came about chiefly in relation to the establishment of the Single Market and the euro as such offers little marginal environmental benefit. On the other hand, the single currency and the economic mechanisms that underpin it are a potentially vital part of the economic pillar of sustainable development.

Overall, history – and particularly the history attached to the metamorphosis of Britain from a 'reluctant environmentalist' in the 1970s, to one of the leading proponents of sustainable development at the EU level in the 1990s – strongly suggests that if it wants to put its full weight behind these and other debates related to the pursuit of sustainable development, the only effective position to be operating is *within* a Europe united by a single currency. By operating at the real heart of Europe, Britain will be ideally located to ensure that the environment remains at the heart of the European integration project as the EU begins to confront a complex agenda that links international security, poverty and inequality, economic globalisation and the pursuit of sustainable development both at home and abroad.

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Useful websites

The European Environment Agency

<http://www.eea.eu.int/>

European Commission, DG Environment

http://europa.eu.int/comm/environment/index_en.htm

European Parliament, environment committee

http://www.europarl.eu.int/committees/envi_home.htm

The Institute for European Environmental Policy

<http://www.ieep.org.uk/>