3. Why did the 1992 reform take place?

4. What do the 1992, 1999, 2003, 2008, and 2013 CAP reforms have in common?

5. Which new issues entered the agricultural policy debate from the late 1990s and why?

6. Why do some actors consider that the greening of the CAP has been a failure?

7. To what extent are developing countries affected by the CAP?

8. Explain the different national positions on CAP reform across the EU member states?

GUIDE TO FURTHER READING

Daugbjerg, C. and Feindt, P. (2018) *Transforming Food and Agricultural Policy: Post-exceptionalism in public policy* (London: Routledge) This book gives an overview of current trends in the field of food and agricultural policy, and engages with contemporary debates on related issues.

Greer, A. (2005) *Agricultural Policy in Europe* (Manchester: Manchester University Press) This book provides a unique comparative analysis of agricultural policies, and shows that, despite the existence of the CAP, substantial agricultural policy variation exists across the EU.

Patel, K. K. (2009) *Fertile Ground for Europe? The History of European Integration and the Common Agricultural Policy since 1945* (Baden-Baden: Nomos) An overview of the historic development of the Common Agricultural Policy and its implications for European integration.

Skogstad, G. and Verdun A. (eds) (2012) *The Common Agricultural Policy: Policy Dynamics in a Changing Context* (London: Routledge) This book gathers contributions by some of the best specialists of agricultural policy analysis worldwide, and provides an excellent overview of a number of CAP-related issues and debates.

Swinnen, J. (ed.) (2015) *The Political Economy of the 2014–2020 Reforms of the Common Agricultural Policy: an Imperfect Storm* (Brussels & London: Centre for European Policy Studies/Rowman & Littlefield International) This book discusses the outcome of the 2013 CAP reform and the factors that influenced the policy choices and decisions made at that time.

WEBLINKS

http://capreform.eu/   Europe's common agricultural policy is broken—let's fix it!' is the slogan of this blog on CAP reform, which brings together researchers, activists, and analysts from across Europe.

http://commonagpolicy.blogspot.com/   Professor Wyn Grant's blog on the CAP, regularly updated and featuring lots of useful information.

http://ec.europa.eu/agriculture/   The home page of the European Commission's Directorate-General for Agriculture and Rural Development.

http://www.ipes-food.org/eu-common-food-policy   A website by IPES-Food, a think tank which is undertaking a collaborative process of research and reflection to identify the tools that would be required to deliver sustainable food systems in Europe and to offer a Plan B for reforming the CAP.

http://farmsubsidy.org/   An online database launched by a group of journalists and activists, featuring detailed data on who has received what from the CAP (on a country basis) and the EU Common Fisheries Policy (CFP).

http://www.arc2020.eu/#   The website of the Agricultural and Rural Convention (ARC2020), a multi-stakeholder platform for the European citizens or organizations who wish to share their visions and expectations concerning the future of farming and rural regions in Europe, and on the future of the CAP.

25

Environmental Policy

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Chapter Contents

Reader's Guide

Despite its very strong economic roots, the European Union has nonetheless become an international leader in environmental protection and sustainable development policy. Environmental concerns have consequently shifted from being a marginal aspect of the European integration process to one that routinely grabs news headlines and, unlike many other EU policy areas, generates relatively strong political support from EU citizens. These policies, which now impinge on most sectors and areas of the economy, have generally proven resilient to recent economic and deregulatory pressures. This chapter documents and explores the reasons behind the relatively rapid transformation in the EU's governing capabilities in this policy area, explores the main dynamics of policy-making from different analytical perspectives, and identifies future challenges including Brexit.

Introduction

At its founding in 1957, the then **European Economic Community (EEC)** had no environmental policy, no environmental bureaucracy, and no environmental laws. The word 'environment' was not even mentioned in the **Treaty of Rome**. Over 60 years later, EU environmental policy is 'broad in scope, extensive in detail and stringent in effect' (Weale et al., 2000: 1). It conforms to a set of guiding principles, has its own terminology, is the focus of significant activity amongst a dedicated network of policy actors, is underpinned by a binding framework of laws which have an explicit basis in the founding treaties and has deeply affected

BOX 25.1 THE EVOLUTION OF EU ENVIRONMENTAL POLICY

1972	Heads of state and government, meeting in Paris, request the Commission to prepare an environmental strategy.
1973	Commission adopts First Environmental Action Programme (EAP).
1987	Single European Act provides a more secure legal basis.
1993	Maastricht Treaty enters into force and extends qualified majority voting (QMV) to almost all areas of environmental policy.
1993	Publication of Fifth EAP: explores the pursuit of a new goal—sustainable development
1997	Treaty of Amsterdam: makes promotion of sustainable development and environmental policy integration (EPI) central objectives.
2002	A sixth, more binding, EAP is adopted.
2008	EU adopts a climate and energy package of policies committing member states, inter alia, to a 20% reduction in greenhouse gas emissions by 2020.
2012	Conflicts erupt between the EU and its trading partners over the regulation of new energy sources such as biofuels and shale gas and the proposed inclusion of international aviation in the EU Emissions Trading System.
2014	The Juncker Commission targets existing environmental laws for simplification and suggests watering down policy proposals drafted by the Barroso II Commission.
2015	The European Union leads the 'high ambition coalition' during the Paris UN meeting, but the Dieselgate scandal reveals European car manufacturers are evading EU air pollution rules.
2016	More than 500,000 European citizens ask the European Commission to safeguard the Birds and Habitats directives.
2017	The UK starts negotiating its departure from the EU, raising questions about future EU and UK environmental policies.

BOX 25.2 KEY PRINCIPLES OF EU ENVIRONMENTAL POLICY

Environmental management	Prevention (preventing problems is cheaper and fairer than paying to remedy them afterwards)
	Action at source (using the best available technology to minimize polluting emissions)
	Integrated pollution control (ensuring that, for example, attempts to remedy water pollution are not transformed into air or land pollution problems)
Specification of environmental standards	Resource conservation (environmental protection as a goal in its own right)
	High level of protection (aiming for the highest level of protection possible)
	Precaution (acting to protect the environment even when cause–effect relationships are not fully understood)
Allocation of authority	Appropriate level of action (acting at the 'right' level)
	Subsidiarity (only acting at EU level when problems cannot be tackled at national level)
Policy integration	Polluter pays (the polluter, rather than society as a whole, should pay to address problems)
	Environmental policy integration (integrating an environmental dimension into the development of new sectoral policies such as agriculture and transport)

Sources: Knill and Liefferink (2007: 28); Weale et al. (2000: 62–3)

the policies of its member states. In short, it has successfully evolved from a set of 'incidental measures' (Hildebrand, 2005: 16) to a mature system of multi-level environmental governance. Virtually all environmental policy-making within the member states now involves the European Union.

What is especially striking about this transformation is how quickly the EU assumed control over policy powers 'that in a federal state would have been ceded to the centre only grudgingly, if at all' (Sbragia, 1993: 337). Moreover, as a sector, environmental policy has shown itself to be mostly resilient to recent deregulatory pressures. This chapter documents the reasons behind this relatively rapid transformation (see Box 25.1), identifies the main dynamics of policy-making, and discusses the resilience of EU environmental policy to ongoing and new challenges such as the post-2008 economic crisis and Brexit. It concludes by exploring future challenges as environmental policy enters its middle age.

The development of environmental policy: different perspectives

There are several ways to comprehend the evolution of EU environmental policy: one is to explore the content of the EU's environmental action programmes (EAPs); a second is to examine the main policy outputs; a third is to scrutinize the periodic amendments to the founding treaties; and finally, the dynamic interplay between actors at the international, EU, and national levels can be examined. The remainder of this section is structured around these four perspectives.

The environmental action programmes

Seven EAPs have been adopted by the Commission since the early 1970s. Initially, these were essentially 'wish lists' of new legislation, but they gradually became more comprehensive and programmatic. The first (1973–6), identified pressing priorities—namely, pollution and other threats to human health. It also established several key principles (see Box 25.2), which were subsequently enshrined in the founding treaties (see 'The evolution of the treaties'). They were not particularly novel—many derived from national and/or Organisation for Economic Co-operation and Development (OECD) best practices—but they represented an innovative attempt to apply them together in a new, supranational setting.

The second EAP (1977–81) followed the same approach, but emphasized the need for scientifically informed decision-making, through procedures such as environmental impact assessment (EIA) for proposed developments, and underlined the Commission's desire to become more involved in international-level policy-making (see 'Key items of policy').

By contrast, the third (1982–6) and fourth (1987–92) EAPs were more programmatic, setting out an ambitious strategy for protecting the environment before problems occurred (Weale et al., 2000: 59). They also underscored the benefits of preventing problems by fitting the best available abatement technology to factories and vehicles.

The fifth (1993–2000) and sixth (2002–12) EAPs accelerated the shift to a more strategic and cross-cutting approach. The fifth introduced the notion of sustainable development, explored policy implementation through non-legislative instruments (known as 'new environmental policy instruments', or NEPIs), and identified new ways in which to embed greater environmental policy integration (see Box 25.2). The sixth (2002–12) developed this approach even further by initiating seven over-arching thematic strategies, a feature also replicated in the seventh EAP (Box 25.3).

BOX 25.3 THE SEVENTH ENVIRONMENTAL ACTION PROGRAMME

The introduction of the seventh EAP in 2013 was continually delayed due to political arguments over both its contents and even the justification for another programme. Covering the period between 2014 and 2020, it outlines several strategic themes to guide policy development. To an extent, these themes reflect pre-existing programmatic priorities for clean water, protecting natural capital, improving implementation, reducing waste and integrating policy, but also place greater emphasis on addressing the underlying (that is, systemic) causes of problems such as mass consumption and globalization. In many ways, it illustrates the sector's transition into a more stable and mature area of policy-making.

Key items of policy

Looking back at the content of the EAPs, a steady trend is visible away from a rather ad hoc, reactive approach driven by the Commission, to a more strategic framework, co-developed by multiple **stakeholders**. A similar picture emerges when considering legislative output. In the 1960s and 1970s, legislative output was relatively limited, but then it rocketed in the 1980s and 1990s, tailing off again in the 2000s. By the late 1990s, more effort was being devoted to consolidating, streamlining, and reforming the environmental *acquis communautaire* via less prescriptive framework legislation, including **directives** on air quality (1996), water (2000), chemicals (2006), and marine issues (2008).

As the environmental *acquis* grew, its purpose changed. Thus, the first environmental directives addressed very specific traded products such as cars and chemicals. In the 1980s and particularly the 1990s, the EU diversified into new areas including access to environmental information, genetically modified organisms (GMOs), and even zoos (see case study in Box 25.4), exemplifying rising political demands for environmental protection 'for its own sake'. Nonetheless, the EU continued to favour 'command and control' regulation, confirming its position as a '**regulatory state**' (Majone, 1996) in the environmental sphere.

The evolution of the treaties

Another way in which to comprehend environmental policy is to analyse the environmental provisions of the EU treaties. The legal codification of the environmental *acquis communautaire* has followed the same gradual, but ever increasing, pattern noted above. Thus, the original Treaty of Rome contained no reference to environmental matters. New environmental measures consequently had to rely either on Article 100 EC (now 115 TFEU), relating to the internal market, or on Article 235 EC (now 352 TFEU), which allowed the EU to move into new policy areas to accomplish its goals. Arguments emerged as actors fought over the legal basis of environmental policies. For the Commission, Article 100 proved to be legally more secure and hence politically less contested than Article 235, hence the tendency (noted under 'Key items of policy') for early Commission proposals to target traded products.

In one sense, the **Single European Act (SEA)** established a more secure legal basis, with qualified majority voting (QMV) for issues with a **Single Market** dimension. This undoubtedly allowed the EU to enter new, and less 'obvious', areas such as access to environmental information and ecosystem conservation (the Natura 2000 network and the Habitats Directive, for example)—all somewhat removed from the EU's internal market. In another sense, it simply codified the status quo: over one hundred items of policy had already been adopted when it was ratified in 1987 (Wurzel, 2008: 66). The Maastricht and Amsterdam Treaties introduced new policy principles (such as sustainable development, precaution, and environmental policy integration—see Box 25.2) into the founding treaties. Crucially, they also extended QMV to almost all areas and greatly increased the European Parliament's powers. By the late 1990s, most environmental policy followed one decision-making route, QMV in the Council plus **co-decision** (now the ordinary legislative procedure, or OLP) with the Parliament. Because the legal underpinnings of environmental policy were already embedded, there was little need for new environmental content in the Nice (Jordan and Fairbrass, 2005) and Lisbon Treaties (Benson and Adelle, 2012).

Actor dynamics

The development of environmental policy has not followed a single pattern. There have been periods of continuity, and sudden and very significant change. Furthermore, some aspects (for example, the action programmes) have evolved in a fairly gradual and systematic manner, whereas others (for example, the main types of policy) have emerged much more unpredictably and opportunistically. In order to understand these similarities and differences, we must look at the main actors and the evolving constraints under which they operate.

The European Commission deserves the bulk of the credit for developing an EU environmental policy. Initially, it worked hard to establish a case for EU involvement. Undaunted by the absence of high-level political support (no Commission President has consistently championed environmental policy), a weak treaty basis, and limited administrative capacities (there was no designated environmental Directorate-General until 1981), it realized that it had to be creative and opportunistic to thrive. This approach strongly reflected Monnet's **neo-functionalist** method of integrating 'by stealth' (Weale, 2005; see also Chapter 4). But as the political and legal basis of EU policy became more secure, the Commission focused more efforts on governing instead of continually expanding protection to new areas.

Until the 1980s, the chief policy-making body was the Council (see Chapter 11). The first meeting of the Environment Council took place in 1972. Pushed hard by a '**troika**' of environmental 'leader' states comprising the Netherlands, Denmark, and West Germany, it adopted increasingly ambitious legislation. After 1982, West Germany strongly advocated new EU policies based on the philosophy of 'ecological modernization' that suggests high levels of environmental protection are reconcilable with, and can even promote, economic growth. Less ambitious or 'laggard' states (typically from the Mediterranean region, but also including Ireland and the UK), were rather slow to recognize what was happening, adopting some policies almost 'absent-mindedly' (Weale et al., 2000: 359). Sbragia (1996: 237) has argued that the outcome of these actor constellations was a 'push–pull' dynamic. The stark division between 'leaders' that set the policy agenda and 'laggards' seeking to wield their veto power began to dissolve in the 2000s. New member states had entered the fray (for example, after 2004) and some existing participants (the UK, for example) had changed their preferences and bargaining tactics as a result of EU membership (Jordan, 2002). Consequently, today national alliances can coalesce around specific issues, depending on the interests at stake.

The European Parliament (see Chapter 12) is often described as the 'greenest' EU institution (Burns, 2012), although it did not actually establish its own dedicated environment body—a committee—until 1979. During the 1970s and 1980s, it highlighted new environmental issues such as animal protection and policy implementation, which were subsequently taken up by actors within formal policy-making processes. With the appearance, first, of the **cooperation** and then later the co-decision/OLP procedures, its formal influence grew. However, enlargement coupled with the electoral success of centre right parties reduced the Parliament's environmental ambitions after 2004 (Burns et al., 2012). Today, its influence remains largely reactive. It certainly struggles to hold the Council to account in environmentally important areas (such as land use planning, energy use, and taxation) in which unanimous voting remains the norm (Burns, 2012).

The Court of Justice of the EU (CJEU) played a pivotal role in establishing the legal importance (and hence **legitimacy**) of EU environmental policy via rulings on the **direct effect** of directives (see Chapter 13). During the 1970s and 1980s, the Court was drawn into adjudicating on the legal basis of EU policy, often resolving them in favour of the Commission (Krämer, 2012). Earlier rulings also supported the Commission's right to participate in international environmental policy-making (Sbragia, 2005). As the legal basis of EU policy became established, the CJEU's focus shifted to resolving disputes over lax policy implementation. Indeed, in 2016, there were more ongoing infringement cases in the environmental area than just about any other sector (European Commission, 2017).

Interest groups constitute the final type of policy actor. National-level environmental pressure groups established a Europe-wide **federation** (in 1974) to

BOX 25.4 THE ZOOS DIRECTIVE

An illustration of the 'spillover' of environmental policy into parallel areas is the 1999 Zoos Directive. Animal welfare policy was originally introduced as part of the Common Agricultural Policy, with several measures adopted in the 1970s primarily to prevent cruelty to farm animals. Throughout the 1980s, the Commission pushed for the adoption of related EU legislation, including bans on imports of whale and seal products. By the early 1990s, animal welfare NGOs supported by MEPs had successfully lobbied the Commission to propose protective measures for zoo animals via a directive. However, in the heated debate surrounding the ratification of the Maastricht Treaty in 1992, several national governments, led by the UK, questioned the EU's competence to regulate on this matter. Citing the new subsidiarity clause in that Treaty, they forced the Commission to consider proposing a non-legally binding recommendation instead. But supporters continued to lobby for a binding directive. They were helped by the 1997 election of a Labour government in the UK, which promised to support Europe-wide standards and, ironically, invoked subsidiarity to justify greater EU action. The Council agreed and a Directive laying down minimal zoo operating standards was adopted in 1999. (Benson and Jordan, 2014)

coordinate their efforts. The European Environment Bureau (EEB) now has more than 140-member organizations, ranging from large, well-established national bodies to much smaller and more local ones. In the 1980s and 1990s, environmental pressure groups lobbying directly in Brussels mushroomed—another indicator of how far **European integration** has proceeded in this sector (Adelle and Anderson, 2012). Although these organizations are highly motivated, they are comprehensively out-resourced by business interests that can hire the very best public relations firms to lobby EU policy-makers. Nonetheless, they are drawn to Brussels because they perceive that they can achieve things in Brussels and internationally that would be unattainable back home (see Chapter 14). They also play a key role in informing the European Commission of suspected cases of non-compliance.

KEY POINTS

- At its inception in 1957, the European Union had no environmental policy. Environmental issues were not even explicitly mentioned in the Treaty of Rome.

- Nonetheless, over the last 50 years, the EU has developed a wide-ranging environmental *acquis communautaire*.

- Environmental policy development can be understood by examining, inter alia, the seven Environmental Action Programmes, the content of key policy outputs, EU treaty amendments, and the interplay between different policy actors across multiple levels.

- Several actors vie for influence within this system. The Commission has been instrumental in driving policy development, often opportunistically and 'by stealth' (Weale, 2005). Other influential actors include the Council of the EU, the European Parliament, the Court of Justice of the EU, and interest groups.

Linking different perspectives: the underlying dynamics of environmental policy

Having now introduced the main actors, policies, and legal frameworks, we are better placed to explore the underlying dynamics of EU policy-making. In the past, EU environmental policy could be explained through one main dynamic (for example, the **regulatory competition** between member states) and/or in

binary terms (leaders vs. laggards; EU institutions vs. member states; economy vs. environment). But as the sector has matured and become more deeply entangled with others, these binary constructs no longer suffice (Lenschow, 2005). Indeed the nature of specific policy outputs (Directives, Regulations etc.) and their differentiated impact on the ground within the member states are too complex and contingent to be explained by a single model or framework (Sbragia, 1996: 241). To understand better how policy is made, analysts have therefore started to explore policy developments in particular sub-areas of environment policy using more governance-centred approaches (Lenschow, 2012). These studies have revealed the salience of three interacting dynamics: **Europeanization**; internationalization; and cross-sectoral policy integration.

Europeanization

Europeanization is the process through which EU-level policies affect domestic systems (see Chapter 8). As analysts started to investigate the domestic implications of more multilevel environmental governance, the picture that emerged was one of differential Europeanization. Thus, every state has been affected by EU membership, even the greenest 'leader' states. Moreover, states have been affected by the EU in different ways: studies show that the content of their policies has been more deeply affected than their style of operation (for example, anticipatory or reactive, **consensual** or adversarial) or their internal administrative structures (Jordan and Liefferink, 2004). The EU has therefore introduced entirely new policy instruments in some countries and altered the manner in which existing instruments are applied in all countries. Moreover, the EU has tightened the level at which these instruments are formally calibrated or 'set'. The overall extent of domestic adaptation to these new policy settings has been relatively limited in some countries (e.g., the Netherlands, Austria, Sweden, and Germany), whereas in others it has been dramatic (namely Greece, Ireland, and Spain).

In summary, while some aspects of national policy have become more similar, no long-term convergence towards a common 'European' model is apparent (Jordan and Liefferink, 2004). But national politics (as distinct from policy) have undoubtedly been very deeply affected by EU membership. Europeanization has been an unpredictable and, at times,

rather chaotic process, casting doubt on claims made by intergovernmentalists that states are remote from (and largely in firm control of) the integration process. With Brexit, the UK is engaging in the first systematic attempt at what could be termed de-Europeanization (see Chapter 27). Brexit raises fundamental questions regarding policies (will national standards increase, decrease, or be maintained?), governance, (how will UK policy be implemented and enforced?), and politics (Burns et al., 2016).

Internationalization

International-level drivers are far more important in EU environmental policy than is sometimes assumed. After all, it was the 1972 UN Stockholm Conference that first gave EU actors an impetus to discuss their respective approaches, to build new institutions, and, eventually, to develop common policies. An internal–external dynamic has therefore been apparent since the very dawn of EU policy.

What does this particular dynamic entail? First and foremost, it involves different EU-level actors (chiefly the Commission and the EU Council Presidency) working alongside the member states in international-level discussions. However, in practice, the point at which member state control ends and EU control begins varies across issue areas, engendering highly complex debates about who exactly should take the negotiating lead. In the 1970s and 1980s, 'laggard' states in the European Union prevented the EU from developing a more progressive collective position at the international level regarding emerging global issues such as stratospheric ozone depletion (Sbragia, 2005). In the 1990s, changing internal political and legal conditions facilitated quicker internal agreement, allowing the EU to adopt a more ambitious international position on global climate change, biodiversity protection, and sustainable development (Jordan et al., 2010). The EU has since increasingly operated as a 'soft power' actor by promoting its environmental norms to third countries through its trade relations (Adelle et al., 2015). Environmental policy has therefore assumed a greater role in the development of a broader EU foreign policy (see Chapters 17 and 19), despite continuing internal disagreements between the Commission and the Council over who should 'speak for Europe'.

The EU's position as self-styled environmental 'leader' (see Zito, 2005) was, however, severely dented at the chaotic Copenhagen Conference of the United

Nations Framework Convention on Climate Change (UNFCCC) in 2009, when EU negotiators openly disagreed with one another. The EU quickly found itself side-lined by the US and China, and forced to accept a weakened deal on reducing global greenhouse gas emissions. At the next meetings, held in Durban in 2011, Lima in 2014 and Paris in 2015, the EU salvaged some of its reputation by building alliances with developing countries, and upgrading its internal coordination systems.

This takes us to the second dimension of internationalization: the drive to give the EU an external environmental face has, in turn, boomeranged back and affected internal EU policies via a process that is analogous to Europeanization. For example, the EU developed internal policies to control chemicals (such as chlorofluorocarbons, or CFCs) that deplete the ozone layer—a policy area originally formalized and transformed by two important UN agreements brokered in Vienna (1985) and Montreal (1987). As discussed under 'Policy dynamics in practice', the EU's participation in the UNFCCC Kyoto Protocol negotiations (1997) were subsequently to influence European and, in turn, national-level climate policy (Jordan et al., 2010). In the coming years, international climate commitments entered into in 2015 at New York (the 17 UN Sustainable Development Goals) and Paris (via the UNFCCC) may similarly boomerang back into established areas of internal EU policy-making, such as agriculture, transport, and energy.

Integration

Environmental policy integration is a long-standing goal of EU policy (see Box 25.2), linked to the achievement of sustainable development. In practice, integration means ensuring that economically powerful sectors, such as transport, agriculture, and energy, routinely build an environmental dimension into their policy design activities. In the past, DG Environment approached integration from a somewhat weaker and more defensive position—that is, by issuing regulations to compel these non-environmental sectors to take environmental issues into account. The obvious benefit of this rather segmented approach was that a large amount of ambitious environmental legislation could be adopted relatively quickly. The drawback was that much of it was either watered down in the Council or systematically ignored by the sectors and/or reluctant states during the implementation stage.

In the 1990s, the environmental sector moved towards a more systematic form of integration via the Fifth and Sixth Environmental Action Programmes (EAPs), the post-1998 Cardiff Process of integrating environmental considerations into all policy sectors (Jordan and Schout, 2006), and the 2001 Sustainable Development Strategy. Moving out of the environmental 'policy ghetto' (Sbragia, 1993: 340) was always going to be fraught with difficulty, given the inherently expansive nature of environmental issues. But it seemed to offer the tantalizing prospect that the sectors might eventually bear more responsibility for adopting strong and implementable environmental policies. At the time, some environmentalists wondered whether this approach could even, if pushed to its logical end point, make environmental policy-makers redundant. Other commentators, such as Liberatore (1993: 295), however, warned of 'policy dilution', under which sectors adopted and implemented new environmental measures but in a greatly 'diluted and piecemeal' form. The next section examines the accuracy of these predictions.

Policy dynamics in practice

Since 2000, the interplay between these three dynamics moved centre-stage, shaping the EU's response to many new issues including climate change and energy insecurity. Today, these two are the most dynamic and high-profile foci not only of environmental policy, but also of cross-sectoral integration generally (Jordan et al., 2010). In a bid to achieve international leadership at the 1997 UN Kyoto Conference on climate change ('internationalization'), the EU consequently pledged the most far-reaching policy targets of any party (an 8% reduction from 1990 levels by 2008–12). The progressive and proactive stance adopted by the EU resulted from simultaneous pushing by greener member states and the Commission. However, the EU struggled to implement this commitment within its borders ('Europeanization'), while engaged in negotiating a 'post-Kyoto' agreement ('internationalization') in the run-up to the 2015 Paris climate summit. Given that all sectors of the EU generate greenhouse gas emissions (and hence need to mitigate them) and/or stand to be affected by rising temperatures, it is apparent that, like sustainable development, climate change also requires unprecedented levels of cross-sectoral policy coordination ('integration'). In this respect, all three perspectives shed light on past dynamics, but also hint at significant challenges to the sector's future development.

Future challenges

In spite of the undoubted achievements of EU policy, several important challenges remain to be addressed in the environmental sector—namely improving integration, strengthening implementation, coping with **enlargement**, and expanding policy instrumentation.

Cross-sectoral integration: consolidation or dilution?

In the late 1990s, greater cross-sectoral integration leading to more sustainable forms of development was the 'big idea' in the environmental sector. Various strategic processes were initiated (see 'Integration'), but the results thus far have proven rather mixed. The institutional and cognitive barriers to better coordination in the EU multilevel system are daunting (Jordan and Schout, 2006). So it is hardly surprising to discover that non-environmental sectors did not willingly accept responsibility for 'greening' their activities. On the contrary, they used some of the new integrating systems to 'reverse integrate' economic and social factors into environmental policy-making, as predicted by Liberatore (1993). However, the worsening economic climate in the 2000s and growing fears that

Europe was falling behind emerging economic powers in Asia was what really blunted the Commission's enthusiasm for integration. The Barroso I Commission (2005–09) pointedly identified the delivery of the **Lisbon Agenda** of more 'jobs and growth' as its overriding strategic priority. The Cardiff Process of environmental policy integration (EPI) was disbanded, the thematic strategies envisaged in the Sixth Environmental Action Programme (EAP) were repeatedly delayed, and the 2001 Sustainable Development Strategy eviscerated of binding targets and implementing structures.

Under the Barroso II Commission (2009–14), environmental policy adopted an even more 'back to basics' approach. Integration remained a rhetorical objective, but this time it was organized around, and implemented through, binding climate change targets on emissions and the increased use of renewable energy. In other words, it corresponds to the more tightly framed aim of achieving greater *climate* (not environmental) policy integration (Dupont, 2016). The comprehensive new package of climate and energy policies adopted by the EU in late 2008 required unprecedented degrees of coordination between the environment, transport, agriculture, and energy sectors. And the presence of a clear environmental threat (of dangerous climate change) and strong international commitments (embodied in the Kyoto Protocol) appeared to be more forceful drivers of integration than the far broader (and hence politically weaker) legal commitments to integration and sustainable development contained in the **Amsterdam Treaty**.

In the post-2008 'age of austerity', the EU's commitment to these legal commitments appears rather more uncertain. The Juncker Commission's (2014–19) decision to merge the Environment and Fisheries portfolios and the Climate Action and Energy portfolios reawakened long-standing concerns that integration could lead to dilution. Under Juncker, the EU struggled to agree a new long-term mitigation target (eventually, 40% by 2030) and has sharply reduced the adoption of new environmental policies (Kassim et al., 2017).

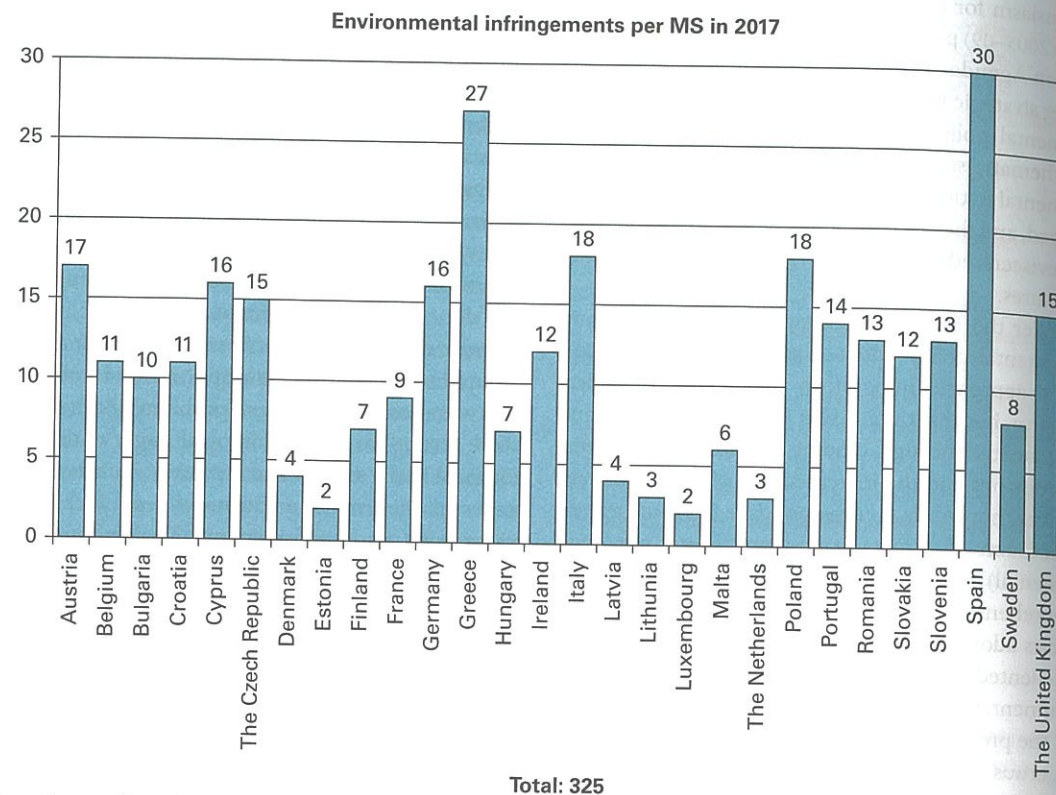### Turning policy process into environmental outcomes

Agreeing environmental policies is one thing, but implementing them is an entirely different challenge. Policy implementation was effectively a 'non-issue'

until the Parliament politicized it in the 1980s after the Seveso industrial accident (see case study in Box 25.5). Poor implementation is endemic across many EU policy areas. But in contrast to the competition and fisheries sectors, DG Environment lacks inspection powers, being reliant on other actors (for example, interest groups) to bring cases of non-compliance to its attention.

The exact size of the implementation 'gap' remains a matter of intense academic and policy debate (Jordan and Tosun, 2012). Some of the earliest and most analytically novel work on implementation was done in the environmental sector but it tended to focus on specific directives (Treib, 2014) and contributed to a common assumption that implementation was mostly a 'Southern problem' (Börzel, 2003). More recent work has employed larger databases to compare many sectors and explored a number of substages of the implementation process, such as legal transposition and enforcement. The finding that *all* states experience implementation problems at some point and in relation to certain (sub)types of policies has helped to undermine the old, binary view that implementation followed a North vs. South pattern (see Figure 25.1).

The responses to inadequate implementation have tended to follow two main approaches (Tallberg, 2002). One approach adopts a problem-solving mentality, focusing on increasing national administrative capacities to implement EU law. The other follows a more coercive mentality whereby states that fail to comply are subjected to financial penalties and reputational damage ('naming and shaming'). Since the early 1990s the EU has followed a mixture of both approaches. A good example of the former is the IMPEL (European Union Network for the Implementation and Enforcement of Environmental Law) network of national regulators. Started in 1992, it shares good practices among officials. The European Commission has also repeatedly reviewed the *acquis* in order to simplify it. In the 1990s this was dubbed 'better lawmaking'; in the 2010s 'Fitness Checking' became popular (Gravey and Jordan, 2016). But these attempts at 'better regulation' have nonetheless raised concerns among civil society that the EU is intent on deregulation. For example, when the Commission announced plans to merge two long-standing nature directives on wild birds (1979) and habitats (1991), environmental NGOs mobilized their massive memberships to generate a petition with more than 500,000 signatures

Figure 25.1 Environmental infringements per member state in 2017

Environmental infringements per MS in 2017

Total: 325

Source: European Commission (2017) Monitoring the application of European Union law 2016 Annual Report, Brussels: European Commission, available at http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=COM%3A2017%3A370%3AFIN&from=EN

on it. Eventually, the Commission published research showing that both laws were fit for purpose but just needed to be better implemented.

The EU has also sought to apply the more coercive approach. Enforcement capacities have been increased—first, in 1992 when the CJEU was given the power to financially sanction member states and second, in 2009, when the Lisbon Treaty granted it the power to financially sanction a member state in the first instance. But the whole infringement procedure is really not that coercive. It can take many years, and is dependent both on the European Commission being alerted to an infraction—which is bound to be uneven, as the environmental movement is not as developed across all parts of the EU—and deciding to act—as it has no legal obligation to start infringement proceedings (see Chapter 13).

The continuing presence of poor implementation is certainly an important factor affecting levels of environmental quality in Europe (European Environment Agency, 2015). Many pollutants such as acid rain have been reduced, due mainly to effective national application of laws such as the Large Combustion Plant Directive. But data from Eurostat consistently show that progress in relation to the more interconnected challenge of sustainable development has been more uneven, primarily because of limited cross-sectoral policy integration (Jordan et al., 2013). So while many economic indicators show positive trends over time, some environmental criteria have moved in the other direction. Of concern is that, despite a raft of regulatory countermeasures, there are systemic pressures (e.g., urbanization, mass mobility, and consumption) that are accelerating habitat destruction, urban air pollution, and the contamination of water sources by agricultural pollutants (European Environment Agency, 2015).

Coping with enlargement

EU environmental policy coped remarkably well with previous enlargements, but the 2004, 2007, and 2013 **accessions** were always expected to weigh more heavily on the policy process in Brussels, as well as in the new entrant states (see Chapter 18). The underlying issues were their size, number (13 in total), and relatively poor economic performance, which was significantly different to previous enlargements.

Fears that the new entrants would work together to impose a brake on the development of new environmental policies have not been borne out (Burns et al., 2012). However, on specific issues—such as climate change—they have worked together to fight their corner. During the adoption of the climate–energy package in late 2008, Poland led a group of eight Eastern European states that called for concessions to be built into the policy designs. This was the first occasion on which the new entrants had acted as a coherent negotiating bloc in the environmental sector, although existing states were also active in demanding concessions. This episode adds weight to the argument (outlined under 'Linking different perspectives: the underlying dynamics of environmental policy') that binary analytical categories are no longer significant.

The more immediate practical problem for the Commission, however, was that, having resisted once and succeeded, the newer members would do so again. That is precisely what has happened in relation to the EU's emissions trading system. Repeated attempts by the Commission to boost the low carbon prices within the system have been repeatedly blocked by the **Visegrad group** of Eastern European states led by Poland. As well as slowing down the pace of reform, they were also highly effective at winning special concessions, extra funding, and laxer conditions (Wettestad and Jevnaker, 2016), which will blunt the environmental effectiveness of the 2018 ETS Directive.

Meanwhile, the EU is also grappling with the first significant attempt to throw enlargement (and thus integration) into reverse. A great deal of attention has been understandably centred on how Brexit may affect national environmental policy and governance within the UK. However, in areas such as climate change where the UK has continually pushed for higher EU standards, it could also significantly impact upon the EU's ability to adopt ambitious long-term targets and push the international climate regime to a higher level of ambition post Paris (Burns et al., 2016).

Enlarging the toolbox

In principle, the available toolbox of environmental policy instruments is relatively full. There has been an active technical debate over the (de)merits of 'new' instruments since the late 1960s (Jordan et al., 2005). These include voluntaristic instruments, including informal management standards, **voluntary agreements** (among polluters, but also between polluters and the state), and market-based instruments, such as environmental taxes and emissions trading. Nonetheless, despite significant learning and borrowing interactions between states, regulation remains the EU's instrument of choice (Jordan et al., 2005). The lack of a sound legal **treaty base** for fiscal measures has certainly retarded the use of environmental taxes, but so has resistance from large polluters. Meanwhile, voluntary agreements have been trialled, but not extensively employed.

⬎ BOX 25.5 THE SEVESO ACCIDENT

Poor implementation became a political issue in the environmental sector following a serious industrial accident in Seveso, Italy in 1976. An explosion at a factory, in which clouds of highly toxic dioxin gas contaminated the surrounding area, necessitated a major clean-up operation. Drums of dioxin waste recovered from the site should have been incinerated under existing EU legislation, but instead were stored on site until public pressure finally forced the company to deal with them. In 1982, en route to their incineration, the drums disappeared.

The subsequent political uproar and public concern sparked a hunt for the waste, which was eventually found abandoned in a disused abattoir in Northern France. Unhappy over the generally lax state of waste policy implementation, the European Parliament heavily censured the Commission. New legal measures on preventing industrial accidents (named the Seveso Directive) and transboundary shipments of waste were subsequently introduced but implementation still remains problematic.

In the climate change domain, the international and scientific pressure to reduce emissions has encouraged the EU to dip deeper into its environmental toolbox, but with rather mixed success. The most prominent example of a voluntary agreement at EU level aimed to reduce CO_2 emissions from new cars, but after failing to meet expectations has now been replaced by a (2010) regulation (Jordan and Matt, 2014). In contrast, the EU has managed to pioneer an entirely new kind of instrument—emissions trading (see case study in Box 25.6)—but it has been beset with problems.

KEY POINTS

- The addition of new **competences** in the environmental sector has become harder to sustain, primarily owing to fears over international competitiveness.

- Recent enlargement of the EU has presented new problems for environmental policy-making, with some accession states in Eastern Europe prioritizing economic development over environmental protection.

- The poor implementation of environmental policies is likely to become an increasingly significant challenge in an expanding EU.

- EU policy is likely to remain heavily reliant on regulation despite repeated rhetorical commitments to employ 'new' instruments and being host to the world's largest supranational emissions trading scheme.

Conclusion

An active EU role in areas such as the environment is entirely unsurprising. Because the EU is comprised of very affluent states, it was obvious that it would eventually be drawn into ensuring differing national standards did not disrupt free trade. Where problems spanned borders or involved a strong trade dimension, the 'value added' of EU involvement seemed self-evident. Yet many issues now governed by the EU do not exhibit all these characteristics: zoos, bathing and drinking water quality, waste water treatment, bird habitats, and renewable energy supplies, to name just a few. Nor does a functional–economic rationale completely explain why the EU possesses such wide-ranging environmental powers, particularly when compared to other multilevel systems such as the USA.

Putting aside these legal and administrative constraints, the underlying reason for this rapid

BOX 25.6 EMISSIONS TRADING

In the 1990s, the EU tried—unsuccessfully—to adopt an EU-level carbon energy tax, but was thwarted by a blocking coalition of member states backed by business interests. However, EU influence over climate policy has grown since the late 1990s, resulting in large part from the emergence of the Emissions Trading Scheme (ETS). Based on the trading of greenhouse gas emissions allowances, it is not a fiscal instrument and therefore did not fall foul of the **unanimity** requirement in the Council. Spotting a political opportunity to exploit this legal loophole in the treaties and noting that several member states had already adopted trading schemes, the Commission proposed an EU-wide emissions trading system. When this proposal was debated, the UK and Germany strongly endorsed a voluntary approach, whereas most other member states accepted the Commission's plan for a mandatory scheme (van Asselt, 2010). After concessions were made to the UK and Germany, an emissions trading directive was adopted with amazing speed, quickly becoming the keystone of the EU's climate policy. But while a globally significant climate policy innovation, the ETS has experienced problems in practice. An initial over-allocation of emissions trading allowances to industry by the EU controversially provided windfall profits for some major corporations and recent years have witnessed a slump in trading prices, prompting political demands for the Commission to overhaul the whole scheme. However, it has proven immensely difficult to secure agreement on reforms that would significantly raise allowance prices and thus the economic incentive to decarbonize (Wettestad and Jevnaker, 2016).

transformation is probably political: once the basic idea had been accepted that the environment should be protected 'for its own sake, it was but a relatively short step to the regulation' of these and other apparently 'local' issues (Sbragia, 1996: 253). The absence of a fixed constitutional blueprint and relatively weak policy coordination structures, in addition to strong support from environmental interest groups and the public, allowed (and perhaps even tacitly encouraged) DG Environment to behave opportunistically in its environmental 'ghetto'.

The focus of EU environmental policy has significantly shifted over time from remedying problems to 'designing them out' of sectoral policies in accordance with the **sustainability** and environmental integration principles. But as the policy's focus has become

more diffuse, effectively targeting the whole of society rather than single factories and farms, opportunities have grown for the sectors to 'reverse integrate' their concerns into environmental policy. Thinking about EU policy in terms of the intersecting processes of Europeanization, internationalization, and integration helps to explain its current characteristics, while also pointing to several future challenges.

In the 'age of austerity', the tide of new environmental policy has shown signs of slowing but not receding. The 2000s has witnessed a shift 'back to basics' centring on the production of new regulations that address climate change and energy security concerns. Environmental policy integration and sustainable development have been sidelined as national governments struggled to save both their own economies and the euro area. But the environmental *acquis communautaire* has endured, with limited evidence (at least thus far) of significant dismantling (Gravey and Jordan, 2016).

To conclude, the political embedding of environmental policy and its continued popularity among ordinary citizens means that it should be considered one of the EU's greatest 'success stories'. However, important challenges remain, not least that of translating policy-making into tangible and enduring improvements in environmental quality and sustainable development 'on the ground' (European Environment Agency, 2015). EU environmental policy has come a very long way in a relatively short space of time but it still remains a 'work in progress'.

? QUESTIONS

1. Why did the EU first become involved in environmental policy-making in the late 1960s and what kinds of obstacles stood in its way in the early years?

2. What roles do the Council, the Commission, and the European Parliament play in environmental policy-making at EU level, and how have these changed over time?

3. In what ways does EU environmental policy interact with and affect national and international policies?

4. How 'effective' has EU environmental policy been in the context of systemic pressures such as urbanization, globalization, and rising consumption?

5. How might Brexit affect the main dynamics of environmental policy?

7. Why is the full implementation of EU policy proving to be such a big challenge?

8. What challenges are EU environmental policy-makers likely to face in the future?

≋ GUIDE TO FURTHER READING

Jordan, A. and Adelle, C. (eds) (2012) *Environmental Policy in the European Union*, 3rd edn (London: Routledge) A textbook summarizing the main actors, institutions, and processes of environmental policy-making.

Jordan, A. and Liefferink, D. (eds) (2004) *Environmental Policy in Europe: The Europeanization of National Environmental Policy* (London: Routledge) The first and most comprehensive analysis of the Europeanization of national environmental policy in different member states.

Jordan, A., Huitema, D., van Asselt, H., Rayner, T., and Berkhout, F. (eds) (2010) *Climate Change Policy in the European Union* (Cambridge: Cambridge University Press) The first book-length account of policy-making in this rapidly evolving and politically salient area.

Knill, C. and Liefferink, D. (2007) *Environmental Politics in the European Union* (Manchester: Manchester University Press) A concise analysis of the evolution of EU environmental politics.

Weale, A., Pridham, G., Cini, M., Konstadakopulos, D., Porter, M., and Flynn, B. (2000) *Environmental Governance in Europe* (Oxford: Oxford University Press) A highly detailed empirical analysis of how and why the EU created such a complex and multilevel system of environmental governance.

🌐 **WEBLINKS**

http://ec.europa.eu/environment/index_en.htm   The home page of the European Commission's DG Environment.

http://www.eea.europa.eu/   The website of the European Environment Agency: contains a wide-ranging database of statistics and reports on the state of the environment across the EU.

http://www.endseurope.com/   A private provider of daily environmental news in both print and electronic formats.

http://ieep.eu/understanding-the-eu/manual-of-european-environmental-policy/   An online manual summarizing every single item of environmental policy at EU level.

http://www.brexitenvironment.co.uk/   An academic network examining how Brexit is impacting UK and EU environment policy.

PART 5

Issues and Debates