

ABSTRACT

EUROPEAN UNION ENVIRONMENTAL POLICY AND ENVIRONMENTAL NGOs LOBBYING

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Environment is a subject gaining bigger importance for the future of the World, while discussions about global warming and sustainable development are increasing. European Union is a leading actor in policy making about environmental matters with an increased awareness about the subject but also thanks to its Civil Society actively involved in this policy making process

While placing EU's environmental policy in a global context, a very important matter; Turkey's adhesion to EU seems to raise new questions about these policies and Turkey's adaptation.

Within this framework, in the first part of the thesis the focus has been explaining European Union environmental policy by giving its history, decision-making under this policy title and the institutions related to this process.

Turkey's adaptation to EU norms and global policies and actual situation has constituted the second party of the thesis.

Finally an extensive analysis of NGOs in environmental decision making has been done in a global scope and within the EU.

Keywords: European Environmental Policy, Global Warming, NGO lobbying, European decision making

ÖZET

EUROPEAN UNION ENVIRONMENTAL POLICY AND ENVIRONMENTAL NGOs LOBBYING

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Küresel ısınma ve sürdürülebilir kalkınma ile ilgili tartışmalar giderek artarken, çevre konusu dünyanın geleceđi için giderek önem kazana bir konu haline gelmekte. Avrupa Birliđi ise çevre konusunda yüksek farkındalıđı ama daha özelden bu politika alanında yoğun faaliyet gösteren Sivil Toplumunu sayesinde bu konuda politika üretiminde başı çeken bir aktör haline gelmiş durumda.

Avrupa Birliđi'nin çevre politikalarını küresel bir perspektife yerleştirirken, oldukça önemli bir konu olan Türkiye'nin üyeliđi ve çevre konusunda Avrupa ve Dünya normlarına uygunluđu yeni sorular uyanmasına sebep oldu.

Bu çerçeve içinde, tezin ilk bölümünde odak noktası Avrupa Birliđi çevre politikaları, tarihi, karar alma mekanizmaları ve bu başlık altında çalışan ilgili kurumlar incelendi.

Türkiye'nin Avrupa Birliđi normlarına ve küresel politikalara adaptasyonu ise tezin ikinci önemli başlığını oluşturdu.

Son olarak küresel ölçekte ve Avrupa çapında Sivil Toplum Kuruluşlarının çevre politikalarında karar alma mekanizmalarındaki etkisi analiz edildi.

Anahtar Kelimeler: Avrupa Birliđi Çevre Politikası, Küresel Isınma, STK lobiciliđi, Avrupa Birliđi Karar Alma Süreçleri

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1. INTRODUCTION

Protecting the environment is essential for the quality of life of current and future generations. The challenge is to combine this with continuing economic growth in a way which is sustainable over the long term.

European citizens are increasingly aware of the importance of high environmental standards for their health, well-being and overall quality of life. They demand high standards, both in their own interest and the interest of future generations. The EU continues to develop its environmental policy. The adoption by the European Council of the EU's first Sustainable Development Strategy in June 2001 was a direct response to that demand. It committed the Union to pursuing policies and actions that support economic growth and social development, without compromising the use and the enjoyment by future generations.

This paper is prepared in order to analyse the abilities and deficiencies of the EU in environmental issues and whether the environmental NGOs in Brussels are effective in this process.

Most people agree that an element of international decision-making is needed to solve environmental problems. This is natural and has no borders. But how effective is the EU in solving threats to our environment? Are the EU's environmental policies in conflict with EU policies in other areas such as trade and agriculture? Is the linkage between the EU and environmental NGOs in Brussels strong?

In the light of researches that I've made, after the necessity of giving a historical background of the history and the development of the European environmental policies according to Environmental Action Programmes and the establishment of the DG Environment, the status of EU in environmental decision-making process, the effects of its institutions, and examples of implementation become the matter.

In order to investigate pre-adhesion procedures, I selected Turkey case as one of the most important issues of EU's agenda. This part includes Turkey's environmental policy and

responsibilities in the accessing process and in what degree Turkey is successful to fulfill its obligations on both national and European level and deficiencies it faces.

Additionally, revealing from my individual curiosity, the effects of lobbying as a great political pressure, NGOs' influence in environmental issues are problematic as well as lobbying and institutional structure which can be easily traced through the related EU directives, which is linked to the question of legality versus actuality. In order to give some explanations and some perspectives upon future scenarios and recommendations on those matters, G9 is taken as primary source with its interference in EU institutions by drafting, experting and advising; aiming to have influence the decision-making process.

In this paper the analysis of the environmental interest groups' capacity engaging policy making in the environmental field will be the major point and also their dedication to the cause and struggling with business associations will be closely examined.

2. EU ENVIRONMENTAL POLICY

2.1 HISTORY AND DEVELOPMENT OF THE ENVIRONMENTAL POLICY OF THE EUROPEAN UNION

It is possible to identify three important break points in the development of the EU's environmental policy. The first was the introduction of the First EAP in 1972, which signaled the response of the national governments to growing global awareness of environmental degradation and a recognition that joint action would result in benefits for the creation of the market and protection of the environment. The second came in the adoption of the Single European Act in 1987 and was crucial to the development of the policy. The SEA gave a firm legal basis to supranational action. It put in place the foundations for the move away from a policy based on ad hoc measures which attempted to address individual problems, and provided the basis for the introduction of an environmental policy founded on the principle of integration of environmental objectives into other areas of policy. The SEA also enabled the EU to play a more active role in global environmental agreements which were being negotiated.¹

A range of political and economic factors helped expand the EU's green remit. Particular to the development of the EU's environmental policy was a heightened awareness of the environmental consequences of unregulated economic growth. Concern about the consequences of economic expansion was piqued by a series of industrial and nuclear accidents, such as the Seveso accident in 1976, Chernobyl in 1986 and the Sandoz chemical spill into the Rhine in 1986. Increasing awareness amongst the European public was reflected in growing demands for environmentally sound consumer products and services and rising electoral support for green parties on the local, national and European level. In the 1989 EP elections, green parties doubled their EP contingent and increased their per cent of the

¹Barnes, Pamela M. & Barnes Ian G., 1999 "*Environmental Policy in the EU*", Edward Elgar Publishing, p.55

popular vote in every Member State.²

Previous to the Single European Act, Union's environmental policy-making was controlled by the bilateral relationship between the Council of Ministers and the Commission. The Single European Act (SEA) was a turning point in the development of the EU's environmental and related policies. In particular, the SEA added to the treaties a special title on the environment which gave legal force to certain principles already set out in earlier EAPs. The SEA gave environmental protection a legal basis in the treaties.

The SEA and Treaty of EU (Maastricht Treaty) introduced institutional changes that sought to increase the democratic legitimacy of the Union while speeding up the decision-making process. Under the SEA, the Rome Treaty was amended so that nearly all legislation related to the internal market would be authorised by qualified majority. The SEA also sought to make the policymaking process more democratic by increasing the powers of the directly elected EP. Non-corporate interests such as consumer or environmental concerns tended to be better represented in the EP than in other EU institutions. (Lobbying groups and Members of the European Parliament (MEPs)).³

The SEA increased the powers of the EP in Union policy-making by putting into force the 'co-operation procedure'. Environmental legislation linked to the single market mostly came under the provisions of QMV in the Council of Ministers and the procedure for cooperation in the EP in which legislation starts in the usual way with a Commission proposal, a parliamentary Opinion and the Council of Ministers' decision. However the Council's decision was not final. It adopted a 'common position' which was returned to Parliament for a 'second reading'. First, it could approve it; second, it could propose amendments by an absolute majority of its members. Third, the EP could reject the Council's position. If the proposal was rejected, the Council could carry it through only by a unanimous vote. The cooperation procedure gave the EP greater influence in Council decisions. The Council still had the final say on policies, but previously the Council's decision on amendments proposed by the Parliament

²Bomberg, Elizabeth, 1998, "*Green Parties and the Politics in the European Union*", European Public Policy Series, Routledge, p.34

³Ibid, p.37

was final. The cooperation procedure gave the EP a second opportunity to put them forward.

With SEA, the EU was mandated to harmonise product standards, including those related to the environment. Completing the single market necessitated more European-wide environmental measures if economic conditions were to be standardised throughout the EU.⁴ Trade considerations were the primary factor shaping the SEA's development. Greens and other critics raised concerns that the increased trade and economic activity generated by internal market could have undesirable effects on the environment and public health. Moreover, there was concern over who would benefit most from the single market. The SEA addressed some of these concerns; the SEA's Article 100a(4) gave Member States the right to apply more stringent national regulations aimed at protecting the environment or worker health and safety, provided they are 'not a means of arbitrary discrimination or a disguised restriction on trade between Member States'.⁵

Following the adoption of the SEA, it finally was possible to speak of an EU environmental policy. The Union's environmental policy competence was secure and not restricted to measures related to trade.

Another factor contributing to the EU's increasing role was a growing recognition of the transnational nature of environmental, degradation and environmental protection in Europe. A transnational actor would be in a powerful position to respond to environmental as well as economic global challenges, or to push others to do so. The need for global negotiations to address global problems expanded the EU's environmental role beyond EU borders. Related to the cross-national awareness was the concern over global environmental problems such as climate change, deforestation and depletion of the ozone layer. Member States had long realised that the EU could provide them with a stronger position in negotiations on global issues.

⁴Bomberg, Elizabeth, 1998, "*Green Parties and the Politics in the European Union*", European Public Policy Series, Routhledge, p.36

⁵Ibid, p.37

In the 1990s with the shift of the pattern a tougher economic climate and recognition of the unanticipated costs of environmentalism have led to a more cautious approach. The EU's environmental remit was furthered by the Maastricht Treaty signed in Maastricht in February 1992 which expanded the legal remit of the EU in global environmental issues. To the legal objectives of EU policy was added the aim of promoting measures at the international level to deal with regional or world wide environmental problems. Thus the EU's hand in international activities related to the environment was strengthened by the force of law. Both the SEA and the TEU explicitly recognized that the Union would have external relations in the field of environmental policy. Overtime the Union would begin to play a much more assertive role within the UN framework, culminating in its very visible role in the climate change negotiations which led to the Kyoto Protocol. The Treaty of Amsterdam brought more changes than many had expected to the environmental field.⁶

A second way in which Maastricht widened the EU's environmental remit was by adding to Article 130 a new 'precautionary principle' suggested the use of potentially costly measures to prevent even the possibility of serious environmental degradation. Yet the Maastricht Treaty failed to detail on how the principle would be operationalised in an EU context. For example, no guidance was given to clarify at what point the need to take precautionary measures takes precedence over the scientific uncertainty surrounding a potential environmental threat.

The Maastricht Treaty also highlighted the principle of subsidiarity. On one hand, it provides a powerful justification for the EU to develop policies where it has never done so before. Clearly, many objectives of environmental policy can be better attained at the EU level than at the national level. On the other hand, however, the principle places limits on EU action. The EU should be involved only in areas of policy where it can provide some sort of advantage or 'added value' to existing national policies. The Treaty leaves wide open the question of precisely where EU

⁶Wallace, Helen & Wallace, William, 2000, *“Policy-making in the European Union”*, Oxford University Press, p.297

policies bring advantages over purely national ones.⁷

Treaty gave a legal base to the EU's use of the concept 'sustainability'. At the heart of the concept of sustainable development is the idea that each generation should not close off options for the next. Sustainable development is thus defined as development that 'meets the needs of the present without compromising the ability of future generations to meet their own needs'.⁸

The Treaty of Amsterdam simplifies decision-making in environmental policy enormously. Most environmental matters are now subject to QMV and the co-decision procedure. The EP will play a more significant role in the legislative process for most environmental issues than it did under the TEU. The Treaty extended considerably the areas where qualified majority voting applied.

'Co-decision' gave the EP a right to negotiate amendments directly with the Council and to veto outright certain types of legislation, thus granting the EP equal standing with the Ministers for the first time. Environmental strategy, consumer protection and public health were among the areas covered by co-decision. However, in terms of the EP's role in environmental policy, the results of Maastricht were mixed. The EP still did not have the power to initiate legislation. Moreover, the text of Maastricht's Article 130s was not clear as to when each of the decision-making procedures. As the EP's own visibility and influence increased, conflict among the EU's institutions became a much more common feature of EU politics. The increased structural and political power of the EP forced both the Commission and Council to take EP view more seriously and to engage in substantial inter-institutional bargaining.⁹

MEPs felt only limited powers had been delivered to the Parliament. Yet, overall, treaty changes increased significantly the EP's institutional powers generally, and its role in environmental policy-making particularly. By expanding the areas covered

⁷Peterson, John & Bomberg, Elizabeth, 1999 *"Decision-making in the European Union"*, St. Martin's Press, New York, p.176

⁸Bomberg, Elizabeth, 1998, *"Green Parties and the Politics in the European Union"*, European Public Policy Series, Routledge, p.38-39

⁹Ibid, p.42

under co-decision, the Amsterdam Treaty, signed in 1997, promises to increase the EP's role further. Because of its tendency to champion environmental causes, the EP's enlarged role served both green issues and actors. The treaty explicitly gives the Commission the right to reject measures even if they are not found to be a means of arbitrary discrimination or a disguised restriction on trade.

The TEU repeated the importance of taking environmental policy into account when formulating and implementing other EU policies. In addition, the treaty assuaged the concerns of poorer member states by allowing temporary derogations and/or financial support from the Cohesion Fund to compensate them for environmental measures involving disproportionately high costs.¹⁰

By the time Maastricht Treaty was ratified in 1993, public interest in environmental issues had begun to wane. In a climate of severe European recession, environmental concerns appeared to become less salient as the state of the economy became the most pressing issue for many voters. Support for ambitious new environmental legislation diminished. This pattern of development suggests that, more than other sectors, EU environmental policy is susceptible to changes in the wider political and economic climate. The Amsterdam Treaty made this link stronger in its new Article 6, which insists that environmental protection requirements must be integrated into the definition and implementation of EU policies and activities. The massive budget reform package, Agenda 2000, makes 'a top priority' the linkage of the structural funds to environmental protection and the promotion of sustainable development.¹¹

The Union's rising concern with environmental issues can be traced through successive Environmental Action Programmes (EAPs). These multi-annual programmes set objectives, state key principles, select the priorities and describe measures to be taken in different policy sectors related to the environment. These Action Programmes expressed an increasing EU commitment to the issues of environmental protection.

¹⁰Dinan, Desmond, 1999, "An introduction to European Integration" Palgrave, New York, p.409

¹¹Ibid, p.176

As the environmental movement gathered momentum throughout Western Europe, national governments and the Commission developed a keen interest in environmental issues. Accordingly, at their summit in Paris in October 1972, the heads of state and government took the unprecedented step of calling for an EC environmental policy. Within a year the Commission proposed and the Council adopted the first Environmental Action Program (EAP). This and the second EAP (1977) listed various measures that were essentially corrective in nature. Subsequent EAPs (1982, 1987, and 1993) emphasized preventive measures. Reflecting the economic malaise of the early 1980s, the third EAP specifically called for environmental action that would contribute to economic growth and job creation through the development of less-polluting industries. It also advocated a European-level environmental impact assessment procedure and, for the first time, offered some EC financing for environmental projects.¹²

Reflecting the growing importance of environmental policy in the EC, in 1981 the Commission established a separate directorate-general -DG XI- to deal with environmental issues. Although smaller than other major DGs, DG XI quickly acquired a reputation for activism and as a main channel for environmental groups to pressure the Commission to pursue "greener" policies. This reputation often put DG XI at odds with its powerful counterparts engaged in economic and internal market activities.¹³

By the Fifth EAP, published in 1992 and due to run until the year 2000, the EU's comprehensive remit in environmental issues was apparent. Entitled *Towards Sustainability*, the 5th EAP brought the term 'sustainable development' into EU parlance which was defined in terms of strategies to secure "continued economic and social development without detriment to the environment and the natural resources on the quality of which continued human activity and further development depend". At the heart of the concept was the idea that each generation should not close off options for the next. The notion of sustainable development thus underlined the EU's commitment to incorporate environmental concerns into other EU activities.

¹²Dinan, Desmond, 1999, *Beyond the Marketplace, An Introduction to European Integration*, Palgrave, New York, p.408

¹³Ibid, p.408-409

The fifth EAP resulted in the creation of an Environmental Consultative Forum which advises the Commission on various environmental issues. In addition to that the European Partners for the Environment (EPE), a Commission-initiated structure under the Environmental Fifth Action Programme brought together some NGOs (such as WWF and the EEB) with business and trade unions and public authorities.

The sixth Environmental Action Programme adopted in 2002 is the EU's ten years policy (2002-2012) policy programme for the environment. It identifies four key environmental priorities: climate change, nature and biodiversity, environment and health, and natural resources and waste. Above all it identifies the need for to decouple economic growth and environmental degradations as the fundamental priorities for the Union in the programme period.

2.2 EU ENVIRONMENTAL POLICY IN GLOBAL REGIMES

Almost from the beginning, EU environmental policy acquired an international dimension. In its early years, the EU was deemed competent to conclude an international convention only when this was expressly provided for in Treaty. During the last twenty-five years, the EU has over time and with some difficulty evolved into an international actor in the environmental area. That difficulty has been caused primarily by (1) questions about whether the EU has competence to deal with specific issues under consideration, and (2) the fact that the European Commission, even when possessing legal competence, is dependent on the member states for representation in international negotiations because the EU is not a full-fledged member of such negotiations. In those cases where 'mixed competence' exists, ad hoc arrangements are typically characterized by the Presidency of the Council of Ministers (CoM) speaking for the agreed EU position when such exists.¹⁴

The EU's global role expanded considerably in 1971 when the ECJ ruled (*ERTA ruling*) that, where the EU had passed internal legislation in a particular area, it had the right to handle external affairs relating to that field. Still, ambiguity remained regarding the proper division of labour in negotiating international environmental agreements, and precise competencies and roles often were not decided until negotiations were under way.¹⁵ It did not specify which of the institutions would have the authority to represent the EU whether the Commission or the Presidency of the CoM but it did set the stage for the EU's international activity.

Realizing that pollution had no bounds and that environmental degradation was a global problem, in the 1970s member states undertook to coordinate their international positions. On that basis, the EU became increasingly involved in worldwide environmental affairs. After the 1972 Stockholm Conference, the member states began signing multilateral environmental agreements. The Commission, for its part, feared that such agreements would establish barriers to trade which would hinder the EU's attempts at economic

¹⁴Sbragia, A. M. & Damro C., 1999, "*The Changing role of the European Union in International Environmental Politics: Institution Building and the Politics of Climate Change, Environment and Planning*", Government and Policy, vol.17, p.54

¹⁵Peterson, John & Bomberg, Elizabeth, 1999, "*Decision-Making in the European Union; The European Union Series*", St.Martin's Press New York, pp.186-187

integration. The Commission therefore quickly identified relations with third parties as a part of its environmental policy. The EU subsequently became part to numerous multilateral environmental agreements.

The EU's international status began to improve with the Vienna Convention on the Ozone Layer signed in 1985. The Council of Ministers had agreed as a prenegotiation position that the EU should become a contracting party without conditions being attached, and the Commission strenuously pursued that position in the actual international negotiations in the face of US and Soviet objections. Finally, a compromise was reached which included both the EU and the member states. A similar process occurred during the negotiations of the Montreal Protocol.¹⁶

The SEA authorized the EC to enter into international agreements on environmental issues "with third countries and with relevant international organizations," and the fourth EAP called on member states and the EC to participate actively on the international stage to protect the environment. When the base was provided in the Single European Act and reinforced in the Treaty of European Union (Maastricht), the Commission gained legal authority to represent the EU in external relations in the environmental arena and fresh impetus to act in other areas. Even when policy competency was provided, however, the international status of the EU outside of the General Agreement on Tariffs and Trade (GATT) was ambiguous and therefore often contested by the member states; furthermore, its presence as a negotiator was resisted by other international actors.¹⁷

The carbon/energy tax case illustrates clearly the EU's intergovernmental backbone. By the mid 1990s, industry's relatively relaxed approach had shifted to frenzied lobbying. Eventually, the industrial lobby successfully convinced EU decision makers to adopt the principle of "conditionality": the implementation of the tax was made conditional on other western countries adopting similar taxes and measures. Strong intergovernmental constraints still exist which limit the range of measures that can be adopted, as well as the scope and character of

¹⁶Sbragia, A. M. & Damro C., 1999, "*The Changing role of the European Union in International Environmental Politics: Institution Building and the Politics of Climate Change, Environment and Planning*", Government and Policy, vol.17, p.57

¹⁷Ibid, p.55

environmental policy.¹⁸

The need for global solutions to global problems expanded the EU's environmental policy beyond European borders. The EU and the member states participated in the Rio Conference in 1992 which underlined the EU's contribution to the causes and solutions of global environmental problems, adopted three basic texts: the Rio Declaration on the Environment and Development (general principles relating to the environmental implications of economic development), Agenda 21 (a comprehensive work program covering virtually every aspect of environment and development), and a nonbinding statement on forest principles.¹⁹

The 1992 United Nations Conference on the Environment and Development (or Rio summit) most Member States were too small individually to play an effective role in global negotiations, but the EU was a powerful transnational actor able to answer environmental as well as economic global challenges. The range of issues to be discussed by the conference was so broad that it was difficult to see any areas in which the EU had exclusive competence. However, the EU was much more visible as an international actor.

Although the EU signed multilateral agreements, its status as an international actor was always debatable. First, its exact policy competencies were never clear even after the Maastricht Treaty. Second, the Commission's role in negotiations was also unclear, and the dividing line between the EU's jurisdiction and that of the member states acting unilaterally was also ambiguous. The issues covered in international environmental negotiations are therefore typically viewed as involving 'mixed competence' and the resulting agreements are known as 'mixed agreements'. Under such a system, both the EU and the member states are parties to the agreement. Given the ambiguous nature of the EU's powers and international legal status, personalities can play a very important role in 'grey areas' in determining whether the commission or the member states play polar negotiating roles.

¹⁸Peterson, John & Bomberg, Elizabeth, 1999, *“Decision-Making in the European Union, The European Union Series”*, St.Martin's Press New York, pp.182-183

¹⁹Dinan, Desmond, 1999, *“Beyond the Marketplace; An Introduction to European Integration”*, Palgrave, New York, p.419

However, the European Union's position in the global environmental arena has changed dramatically since the mid-1980s. It is now an acknowledged actor on the global scene, and it is viewed as supporting the kinds of stringent standards traditionally associated with a 'leader' in global negotiations. Whereas it stymied progress during the negotiations over the Vienna Framework Convention on Ozone and did not play a leadership role during negotiations on the Montreal Protocol on substances that deplete the Ozone Layer, it gradually became more willing to set the agenda after the Protocol's London meeting. By the time of the Kyoto negotiations over climate change in December 1997, the EU had taken on a leadership role.²⁰

i) KYOTO PROTOCOL

At the international level the EU is now widely recognized as a leader, especially in the crucial climate change negotiations. The EU is unique amongst international organizations in that it has a substantial environmental policy of its own, but also participates in a wide array of international agreements. It has been an important player in international negotiations to stop the increasing emissions of greenhouse gases, especially carbon dioxide, and negotiations to protect the ozone layer by reducing ozone-depleting substances.

Of all the issues discussed at Rio, climate change is likely to remain the biggest bone of international contention in the years ahead. Beginning with its 1990 commitment to stabilizing carbon dioxide emissions the Commission has attempted to stake out a position for the EU as a leader in reducing emissions of greenhouse gases and to exert moral pressure on others (mainly the United States) to follow the EU example.²¹

In the run-up to the International Conference on global warming which discussed the Kyoto Protocol (agreed eventually in December 1997) to bind states to implementing the UNFCCC, the EU Environment Council committed the EU to reducing by 15 per cent emissions of greenhouse gases by 2010. The Commission admitted that such targets would be "politically challenging ... as the only way to reduce CO₂ emissions is through

²⁰Sbragia, A. M. & Damro C, 1999, "*The Changing role of the European Union in International Environmental Politics: Institution Building and the Politics of Climate Change, Environment and Planning*", Government and Policy, vol.17, p.53

²¹Dinan, Desmond, 1999, "*Beyond the Marketplace; An Introduction to European Integration*", Palgrave, New York, p.419

modification of structures, processes, equipment and behaviour which directly or indirectly use fossil fuels".²²

The Kyoto negotiations were so difficult because reducing carbon dioxide emissions would not only affect trade but would also affect important sections of the domestic economy both in industrialized and in developing countries.

The EU's efforts to curb carbon dioxide emissions have been hindered so far by the inability to agree an EU-wide CO₂ tax. The case of the CO₂ tax illustrates that the Commission has moved on from reconciling needs of Member States to playing a role at the global level, but that intense disagreements remain in determining when the EU has negotiating rights in international environmental negotiations and when those rights override national prerogatives.²³

In June 1998, the burden sharing targets carefully constructed in 1997 disintegrated when over half the EU member states demanded and won further relaxation of their national targets to limit or reduce greenhouse emissions. In the end, the EU reduced its target to 8 percent reductions below 1990 levels in six greenhouse gases between 2008 and 2012, accompanied by commitments of 7 percent for the United States and 6 percent for Japan and Canada with provisions allowing for both EU bubble and joint implementation as well as for emissions trading and a "clean-development mechanism" to attract private-sector investment to developing countries in return for tradable emissions credits.²⁴

EU policy-makers were pleased with the achievement of embedding legally binding targets into the Protocol which safeguarded EU competitiveness. Their agreed level was an overall per cent reduction of greenhouse gas emissions in the EU, compared to 1990 levels by the year 2012. The US government took much more persuading, even threatening to block the whole process, because of severe difficulties in gaining domestic consent for stringent targets.

²²Wallace, Helen & Wallace, William, 2000, "*Policy-making in the European Union*", Oxford University Press, p.313

²³Peterson, John & Bomberg, Elizabeth, 1999, "*Decision-Making in the European Union*", The European Union Series, St.Martin's Press New York, p.183

²⁴Dinan, Desmond, 1999 "*Beyond the Marketplace; An Introduction to European Integration*", Palgrave, New York, p.420

Eventually the Americans accepted a reduction of 7 per cent in its targets, but only because the Protocol included the so-called 'flexible mechanisms'.²⁵

The flexible mechanisms that is, economic instruments-introduced under the Protocol allow for a system of trading in emissions and transfer of credits earned by those countries which have reduced emissions. In global negotiations, flexibility internally equals coherence externally. But clearly, wide variation in member states' interests often weakens the EU position. The Kyoto negotiations and their aftermath illustrate the limits of EU global action on the environment, even when internal compromises can be reached.

The Kyoto Mechanisms are fundamentally different from the way the European Community and its Member States have organised their environmental policy over the last decades. Environment policy has been based on technical standards, regulatory emission limitations, and more recently on economic instruments such as taxes, charges, and environmental agreements.

The EU's regulatory framework in the field of environmental protection operated with a combination of two approaches, both the traditional 'command and control' approach, and the new market-information-based elements. The Kyoto Protocol adds new mechanisms to this mix, and will complicate still further the politics of EU environmental policy. The economic character of the Kyoto mechanisms will need to be reconciled with both the single market and competition policy.²⁶

The EU is now engaged in developing environmental policy at three main levels: global, EU, and national. A key question for the future is how that new global involvement will alter the dynamics of environmental policy-making within the EU.²⁷

²⁵Wallace, Helen & Wallace, William, 2000, "*Policy-making in the European Union*", Oxford University Press, p.313

²⁶Dinan, Desmond, 1999, "*Beyond the Marketplace; An Introduction to European Integration*", Palgrave, New York, p.420

²⁷Ibid, p.419

2.3 EU INSTITUTIONS IN GREEN ISSUES

2.3.1 EUROPEAN PARLIAMENT

The Parliament has often taken a “greener” line than either the Commission or the Council. It has forced the passage of tighter rules than desired by the Council in several important pieces of legislation. The EP's influence over policy-setting decisions increased with the enactment of the Maastricht Treaty which has made the EP a more weighty institution in the EU's policy process. The new co-decision procedure gave the EP the right to veto legislation related to environmental strategy, consumer protection and public health. By extending co-decision to virtually all non-fiscal environmental measures, the Amsterdam Treaty further enhanced the Parliament's bargaining position. Both the cooperation and co-decision procedures have been important institutional instruments in forcing the Commission and the Council to take account of the EP's interventions. However Treaty revisions gradually have increased the EP's powers and it now holds co-legislative status in certain areas, compared to most national parliaments, the EP's power to legislate is weak. As the EP's own visibility and influence grew, conflict among the EU's institutions became a much more common feature of EU politics. Generally the EP's influence clearly has contributed to increased stringency in EU rules on bathing water, urban waste water treatment and stationary air pollution. Its bargaining has led to important changes in environmental policy on the margins.

The EP's influence in policy-making bases also on informal sources. The Parliament obtains its authority directly from the people: the Council and Commission do not. Through direct elections and through its associates with environmental groups, the EP has translated public support for environmental protection into institutional influence in the EU policy-making process.

A range of parliamentary devices exist to help the EP generally and the Greens specifically to maximise their policy influence. One of the important device is the use of *oral and written Questions*. Green NGOs and MEPs view the questions process as a way to promote agenda-setting from below. Working through MEPs, outside organisations and grassroots movements have suggested motions or directed questions to the Commission. Second, MEPs can table *urgency resolutions*. These are

mostly on broad issues such as human rights or nuclear safety. Given their urgent subject matter, the resolutions receive priority in plenary sessions of the EP. More often than not, these are issues over which the EP has no direct influence. They are quite effective because they require immediate attention from parliamentary committees and are directed promptly to the Commission, Council, appropriate Member State or international body. Another channel of expression is *plenary speeches*, but they remain a fairly unimportant channel for the Greens. First, the amount of speaking time in the EP's plenary is allotted to each political group based on its size.²⁸

Perhaps the most important tools of agenda-setting in the EP are wielded by standing *parliamentary committees*. Working through these committees, MEPs may set the agenda by use of “own initiative reports”. These reports are designed to raise a new issue on the policy agenda, or to give a view on a Commission Communication on which Parliament had not been formally consulted. The Environment Committee is especially active in producing these reports.

A final parliamentary tool for raising issue awareness is the establishment of special *committees of inquiry*. At the request of a quarter of its current members, the EP may set up committees to investigate “incidents of mal-administration with respect to Community responsibilities”.²⁹

2.3.1.1 Green MEPs

Green issues and actors have benefited from general moves by the Parliament to strengthen its own positions within the EU's policy-making process. Both the GRAEL and the GGEP groups sought to shape policy within the Parliament, but with different means and to different degrees. The main difference between the two groups is seen in their key parliamentary priorities, their level of cooperation with other groups, and their approach to committee work.³⁰

²⁸Bomberg, Elizabeth, 1998, “*Green Parties and Politics in the European Union*”, European Public Policy Series, Routledge, London/New York, p.138

²⁹Ibid;p.140

³⁰Bomberg, Elizabeth, 1998, “*Green Parties and Politics in the European Union*”, European Public Policy Series, Routledge, London/New York, p.142

As a group, Green MEPs generally have not managed to combine their efforts as effectively as green NGOs. Generally, if the GRAEL had any influence within the Commission, it was the result of isolated initiatives of individual MEPs. The majority of GRAEL members avoided Commission officials. Similarly, most GGEP members chose to work more closely with their fellow parliamentarians, as opposed to the Commission. MEPs mainly influence DG XI only through the Environment Committee of the EP. Green MEPs on the whole remain sceptical about this avenue of agenda-setting. They believe the Commission favours legislation that, for example, tends to benefit producers more than consumers and environmentalists. Although the GGEP shares many of the EEB's aims, it usually chooses to stand apart from the EEB's lobbying activities. In terms of agenda-setting impact, the Green MEPs' reluctance to work more closely with NGOs and the Commission is a 'purist' strategy that carries strategic costs. Obviously, larger, better-established interests enjoy closer access to Commission officials. Yet smaller groups and environmental organisations have made their presence heard within the Commission, especially within the corridors of Directorate General XI. The Green MEPs' decision to keep an arm's length from their NGO allies, and their dismissive attitudes towards the Commission, have diminished their success in shaping EU policy agenda at a critical stage.³¹

For GRAEL members the more frequent contact was with movement leaders and activities, and other organisations involved in the issue area concerned. This is another way in which Greens hoped to encourage policy influence from the bottom up. Many GRAEL parliamentary reports were filed by Green MEPs who later withdrew their authorship on the grounds that their original report had been completely altered by amendments in committee or in plenary sittings. Thus, despite the active cooperation of a few individual GRAEL MEPs, the group as a whole was viewed as a source of unreliable or inconsistent committee members.³²

³¹Ibid, p.131

³²Bomberg, Elizabeth, 1998, "*Green Parties and Politics in the European Union*", European Public Policy Series, Routledge, London/New York, p.143

Unlike the GRAEL, the GGEP sought to formulate and follow a coherent set of group priorities for each year. In 1992, the UN Conference on Environment and Development (Rio Summit) provided a new theme for Green parliamentarians. The Group produced its own 'Green Agenda' to take to the NGO meeting in Rio.

By the mid-1990s, the Group decided to forgo the practice of designating one Group theme per year. Instead, the GGEP sought to attack a wide array of 'priority' issues within the EP. These included:

- *the demand for democratization of European institutions, pursuit of the goals of eco-development and ecological conversion of industry, starting with energy, armaments and transport industries, support for organic farming, the critique of GATT, the combat against social exclusion on economic or ideological grounds, protection of animal species and their habitat...*³³

Compared to the GRAEL, which used the EP almost exclusively as a tribune for social movement protest the GGEP has become an adept user of a wide variety of insitutional and informal policy-making channels and GGEP was willing to play a more serious and constructive role in Parliament. It offers concrete proposals. It takes a particular problem and decides which parliamentary tool to use.

Whilst the GGEP's priorities were more targeted than GRAEL, the GGEP has had great difficulty in agreeing on one single dominant theme or set of priorities to guide their activities within the EP. In short, despite a clear shift towards cooperative, reformist strategies, the Greens are not willing to abandon totally their unconventional principled stance within the EP.³⁴

³³Ibid, p.144

³⁴Bomberg, Elizabeth, 1998, "Green Parties and Politics in the European Union", European Public Policy Series, Routledge, London/New York, p.144

2.3.1.2 Auto-Emission Directive

The 1989 directive on auto emissions standards for small cars is widely cited as an example of the EP's growing influence in environmental policy. Although intended to promote environmental protection, the directive's primary purpose was the removal of non-tariff barriers to trade in automobiles. In its first opinion EP proposed far stricter ceilings and advocated introduction but was ignored by the Council of Ministers and the Council adopted the weaker standards in its common position. But the EP was granted a second reading as well as the right to reject the common position by majority vote. Responding to green concerns the EP amended the common position, insisting the norms which were "at least as strict" as US standards be obligatory from 1993. The EP threatened that, if its amendments were not accepted it would reject outright the norms proposed by the Commission and agreed by the Council. Had the Parliament done so, the Council of Ministers would have had to act by unanimity to overturn the position. The commissioner for the Environment convinced the Commission to recognise the EP's preference for stricter standards and to accept them in its draft directive. In return the EP's Environment Committee dropped two amendments unacceptable to the Commission. In June 1989, the Council adopted the stricter legislation by QMV. The EP's muscle flexing had produced an EU policy which set a minimum level of environmental protection which has higher than could have been achieved at a domestic level in most EU members. The directive was a political triumph for the EP because it signalled its growing institutional power.³⁵

³⁵Peterson, John & Bomberg, Elizabeth, 1999, "*Decision-Making in the European Union*", The European Union Series, St. Martin's Press New York, p.190-191

2.3.2 EUROPEAN COMMISSION

The Commission is the main initiator of EU policy. Legally, it is the only body with the authority to table legislative proposals. The Commission acts as 'Guardian of the Treaties' and proposes to the Council measures for the development of EU policies.

The Commission is the key player at the stage of policy formulation, since the regulatory approach that it adopts can be very difficult to change completely. Although both Member States and the EP participate in setting the environmental agenda, the main initiator remains the Commission. The Council can instruct the Commission to prepare a text, but cannot command its contents. Commission proposals tend to define the ground on which governments negotiate. For that reason, those member governments interested in externalizing their own domestic regulation try to influence the Commission's initial proposal. The Commission decides what should constitute 'plausible policy responses' and places these on the EU's agenda.³⁶ The Commission's power of initiative is critical because the content of early drafts is essential in shaping the final text.

The Commission is also, however, typically a segmented player. Its structure and culture mitigate against coordinated approaches even more than do most national policy systems. Fragmentation and rivalry within the Commission are more acute in the environmental field than in other sectors. Ambiguity concerning ownership of policy means that the content of environmental proposals often reflects turf battles and competing agendas.³⁷ Thus, many 'environmental' problems need the cooperation of the DGs concerned with those sectors, which are generally much less sympathetic to environmental considerations than is DG XI. DG XI is at something of a disadvantage in that it is less powerful within the Commission than are DGs such as DG III (Industry), or DG VI (Agriculture). The effect of its stature is

³⁶Wallace, Helen & Wallace, William, 2000, "*Policy-making in the European Union*", Oxford University Press, pp.298-299

³⁷Peterson, John & Bomberg, Elizabeth, 1999, "Decision-Making in the European Union", The European Union Series, St.Martin's Press New York, p.191

most often reflected in the dilution of DG XI's proposals even before bargaining with the Council begins. In Rio Summit the Commission could hardly act as an effective counter to a Council reluctant to agree to any but the most marginal of targets.³⁸ In general, however, the integration of environmental considerations into other policy sectors has been a very slow process. It is complicated by the types of trade-off which must be made in order to keep European firms competitive in a global economy and the different priority given to environmental considerations in the various member states.

In sum, the Commission retains important powers to set environmental policy, but the influence of DG XI is highly circumscribed. Moreover, the Commission must share its power to set policy not only with the Council but, increasingly, with the EP, whose influence in environmental policy has expanded steadily.

³⁸Wallace, Helen & Wallace, William, 2000, "*Policy-making in the European Union*", Oxford University Press, p.299

2.3.3 COUNCIL OF MINISTERS

Environment ministers have undoubtedly been able to approve some legislation in Brussels for which they would have been unable to win support in their national cabinets. Most directives are written with quite long lead-times for implementation, and before expenditure has to be made to meet the new standards. As the Council developed its legislative activity vis-a-vis the environment, its members became more cautious, a factor which has begun to undermine the previous advantages of the Commission in pioneering policy.³⁹

At the systemic level, bargaining on the Council is marked by attempts to accommodate diverse environmental interests. QMV is the dominant form of voting on the Environment Council and this rule informs bargaining on most environmental matters by encouraging coalition building between leaders or laggard Member States. Focusing exclusively on bargaining amongst member states makes it easy to neglect the unintended or unexpected consequences of EU environmental decision making.⁴⁰

³⁹Ibid, p.300

⁴⁰Peterson, John & Bomberg, Elizabeth, 1999, "*Decision-Making in the European Union*", The European Union Series, St.Martin's Press New York, p.185

2.3.4 EUROPEAN COURT OF JUSTICE

The ECJ historically has supported the intervention of the EU in the field of environmental protection even though it was acting without a treaty base. Since the SEA, its major impact has been to determine those instances in which the principles of the internal market can be constrained by environmental protection and in restricting the access of environmental groups to the ECJ. In the *Danish Bottle case* of 1988 the Court established that the objective of environmental protection may override the principle of the free movement of goods. Secondly, the court is a key instrument for the enforcement of EU legislation in the member states. Many environmental cases brought by the Commission concern the failure of national governments to adopt legislation implementing directives approved in Brussels.⁴¹

The European Court of Justice is responsible for interpreting and enforcing Community law which overrides national law. The Court consists of 15 judges and nine advocates-generals appointed on the basis of consensus with agreement of the Member States. Cases can be brought by the EU institutions against one another, by the Commission against Member States and by Member States against the Commission.

In the field of environmental policy compliance with legislation after its adoption is often a serious problem. However, the Commission does not usually bring cases concerned with post-legislative compliance to the ECJ. Environmental groups, by contrast, are typically concerned with monitoring post-legislative compliance. The judiciary provides a potentially very important access-point for such groups in their efforts to ensure that legislation is actually executed on the ground. In particular, they would like to use the ECJ to force the Commission to pay more attention to such execution.

⁴¹Wallace, Helen & Wallace, William, 2000, "*Policy-making in the European Union*", Oxford University Press, p.302

2.4 ENVIRONMENTAL DECISION-MAKING IN THE EUROPEAN UNION

The environment marks an especially dynamic policy area in the EU. Unlike more entrenched policy areas such as agriculture, patterns of EU decision-making in the environmental arena are still relatively new and fluid. The open character of decision-making on environmental policy has several broad implications. It means that there is no single pattern to environmental decision-making which reflects the informal politics of bargaining and resource exchange across and within loose issue networks. The cross-sectoral character of environmental issues complicates decision-making. The overlap between the environment and other spheres such as the internal market, agriculture or cohesion policy is widely recognised.⁴²

The role of the smaller EU countries is often dominated in traditional integration theory. More than once in the hazardous waste and carbon tax cases, the Netherlands and Denmark stood out as important influences in the process. The small states can do this through indirect and direct means within the EU. For example, a fundamental aim of the EU system is to enhance its engine, the Single Market. This creates the conditions under which individual country initiatives can raise both policy problems and solutions on the EU agenda. Whatever the size of the country, the EU is compelled to respond.

This pathway is also available to larger countries, which individually may have a greater impact. Not every issue interests a member state equally; this allows smaller states leverage on issues of particular concern. Each government has a position in the Council to sway policy in a particular direction or to form a blocking coalition.⁴³

The EU system is difficult to describe in simple terms, not least because it is an on-going experiment in international co-operation and regional government. Comprising essentially a complex mixture of interactions both between and among institutions at supra-national, national and even sub-national levels, there are several features of the

⁴²Peterson, John & Bomberg, Elizabeth, 1999, "*Decision-Making in the European Union*", The European Union Series, St.Martin's Press New York, p.178

⁴³Zito, Anthony R., 2000, "*Creating Environmental Policy in the European Union*", Palgrave, New York, p.168

EU system that are generally recognised as important when looking at interest group activity in particular. Because power is dispersed among a large number of organisations and political actors both vertically and horizontally in a 'multi-national, neo-federal' fashion there is a large number of potential fora for the interaction of political administration and organised interests.⁴⁴

EU policy-making is extraordinarily complex. First, it reflects the competing interests expressed by civil servants and governmental officials from 25 Member States with widely varying environmental priorities. Second, the EU's environmental policy-making process includes non-state actors such as scientific experts, environmental NGOs and business interest groups. Their participation stems from the dependence of the Commission, who proposes legislation, on a wide variety of sources for information.

But the highly technical nature of environmental policies accentuates the Commission's need for outside experts. DG XI, must rely on a wide array of participants from outside its department for technical and political advice. DG XI has been generally considered to be more open to lobbyists than any other DG. In particular, it is relatively open to a wide array of pressure groups and environmental NGOs anxious to exert influence.⁴⁵

Scrutinizing the stages of the policy process in general terms leads to the conclusion that the large number of institutional access points to the EU system favors the position of entrepreneurs in bringing new ideas to the EU agenda. When organizations and individual officials in a coalition have prestige and political resources equal to or greater than that of the opposing interests, there is a better chance for successful entrepreneurship. EU environmental coalitions have struggled to move initiatives through the Commission and Council veto points because DG XI and its allies face more established sectoral organizations responsible for the Single Market and other

⁴⁴Porter, Martin & Phillip, Alan Butt, 1993, "*The Role of Interest Groups in EU Environmental Policy Formulation: A Case Study of the Draft Packaging Directive*", *European Environment*, vol.3, heft.6, p.16

⁴⁵Bombardieri, Elizabeth, 1998, "*Green Parties and Politics in the European Union*", *European Public Policy Series*, Routledge, London/New York, pp.42-43

policy sectors. Theoretically; the number of potential veto points need not matter to the entrepreneurial coalition.⁴⁶

EU's rule-making characterizes that the Commission has exclusive control of EU agenda-setting. Principal-agency theory expects that other actors can limit the Commission's freedom of action to propose new initiatives.

For instance, the member states, can limit the mandate of the Commission to issue proposals, using the subsidiarity principle. The countries can authorize the Commission to propose only general types of regulatory frameworks, leaving the concept to the member states. On the other hand the EU's environmental policy is distinctively influenced by the EP. The Commission welcomes the Parliament's view precisely because the EP is democratically elected and thus can legitimate EU environmental policy.

In short, environmental decision making is not simply a process which reflects dominant coalitions of member states pushing their own national style of regulation. National concerns are "displaced" onto a higher level, but in the process become mediated by institutional bargaining between the Council, Commission and, increasingly, the EP. In environmental policy the institutional balance of power is constantly shifting, and decisions rules are manipulated in the struggle. Three institutional factors are particularly important in determining how policies are set the increase in "vetoplayers", the growth in the EPs power and commission's enduring role as agenda setter.

⁴⁶Zito, Anthony R., 2000, "*Creating Environmental Policy in the European Union*", Palgrave, New York, p.172

Table 2.1 Actors involved in making EU environmental policy

Policy phase	Actor	Comments
1. Defining the environmental problem in general terms	Multiple influences at national and EU level	Lobbying by interested groups at both national and Supranational levels of government
2. Deciding how to apply the principle of subsidiarity	Council of Ministers, European Commission, Commission initiates the legislation	Lobbying of Commission, European Parliament
3. Setting the agenda	European Council, Council of Ministers. Influence of the Commission and the EP	Lobbying of the Commission and the European Parliament Reflects the separate agendas of each actor
4. Teasing out the differing strands of the problem	Consultation phase, adding the European Parliament, the Economic and Social Committee and the Committee of the Regions	Lobbying done at this stage is already too late to have a significant impact on the legislation
5. Objectives setting and prioritization of the issues	Council of Ministers	Constraints emerge, placed by the national governments, especially if financial issues are identified
6. Identification of the preferred option	Council of Ministers	Outcome of negotiation and bargaining process - legislation adopted
7. Implementation, Monitoring, and control	National governments and the Commission; support of the European Court of Justice	Public participation as an important part of the process. Importance of the development of the role of the European Environment Agency
8. Evaluation and review	National governments, Commission. NGOs, individuals, industrial actors	Wide range of actors involved at this stage. Problems of control and monitoring emerge
9. Policy maintenance, succession and possible termination	Commission and national governments	Problems of control and monitoring emerge

Source: Barnes Pamela M. And Barnes Ian G., “Environmental Policy in the European Union”, Edward Elgar Publishing 1999, p.61

2.5 EUROPEAN ENVIRONMENTAL POLICY IN DIRECTIVES

EU environmental legislation has developed unevenly, varying from measures on specific problems to directives on catchall issues. In the mid-1990s EU environmental legislation developed along two main lines: (1) the proposal of framework directives such as those on air quality and the ecological quality of water and (2) the consolidation or revision of existing directives such as those on environmental impact assessments, the prevention of major accidents involving dangerous substances (the so-called Seveso directive), and the quality of bathing water.⁴⁷ Most environmental policy relies on the use of directives.

- ***Seveso directive:***

After much debate following a major industrial disaster in Seveso, Italy, in 1977, the Council adopted a directive aiming to ensure that manufacturers using dangerous materials, as well as local authorities, have adequate contingency plans to limit the environmental impact of accidents. A revised and updated Seveso directive adopted in December 1996, kept the basic principles of the original directive but added new requirements and measures to achieve more consistent implementation.

- ***Environmental impact assessments:***

In 1985 the Council adopted a directive compelling member states to demand “environmental impact assessments” before approving projects that by virtue of size, nature, or location are likely to have a significant impact on the environment. Assessments are mandatory for certain types of industrial and infrastructural projects.

- ***European Environment Agency (EEA):***

A 1990 regulation created the European Environment Agency to collect and circulate reliable data on the environment, thereby partially filling the information gap that had plagued EU efforts to formulate and enforce environmental policy. A dispute over the siting of European agencies, eventually resolved at the Brussels summit in October 1993, delayed formal establishment of the Environment Agency until October 1994, when it

⁴⁷Dinan, Desmond, 1999, “*Beyond the Marketplace; An Introduction to European Integration*”, Palgrave, New York, p.410

opened in Copenhagen.⁴⁸

• ***Ecolabeling:***

In 1992 the Council adopted a regulation laying out rules for a scheme to award "ecolabels" to environmentally friendly products, ranging from detergent to refrigerators.

• ***Ecoauditing:***

In March 1993 the Council adopted a regulation setting out the rules for the EU Eco-Management and Audit Scheme, which became fully operational in April 1995. Under the voluntary regulation, participating companies improve and periodically assess their environmental performance, provide adequate public information, and submit their systems and public statements to a review by a panel of independent experts. In return, companies are allowed to use a logo indicating their participation in the scheme.

• ***Integrated pollution prevention and control (IPPC):***

In December 1996 the Council adopted a directive obliging member states to install regulatory systems that would issue a single permit to enterprises covering all types of emissions (air, water, and soil). This directive obliges regulatory authorities to evaluate the overall effect of a given operation on the environment not only by using criteria based on environmental quality standards but also by comparing emissions levels to those possible with the "best available technology."⁴⁹

• ***Convention on Trade in Endangered Species (CITES):***

A 1982 directive instituted a system of licensing to implement the 1973 International Convention on Trade in Endangered Species. In response to the impending elimination of border controls, in 1992 the Commission proposed further measures to improve internal implementation of CITES rules, resulting in a Council regulation of December 1996.

⁴⁸Dinan, Desmond, 1999, "*Beyond the Marketplace; An Introduction to European Integration*", Palgrave, New York, p.411

⁴⁹Ibid, p.411

- ***Wild birds directive:***

This directive updated six times between 1981 and 1994, is designed to protect more than 100 "particularly vulnerable" species of birds and their habitats. The directive also restricts hunting of additional species, but this provision is widely disregarded in certain member states (especially France) because of the strength of hunting lobbies.

- ***Habitats directive:***

In May 1992 the Council adopted a directive establishing a general program for the protection of natural habitats. It was to be composed of a "coherent European ecological network," called "Natura 2000." The EU may designate sites as special conservation areas even if they have not been proposed by member states.

- ***Motor vehicle emissions:***

Responding to steadily increasing volumes of motor vehicle traffic and to public concern, EU standards have become stricter over time; as a result, emissions have been reduced by an astounding 80-90 percent per car since 1980.

A 1970 directive began the process by setting technical standards for emissions of CO₂ and unburned hydrocarbons for most gasoline-powered vehicles. The 1970 directive was based on "optional harmonization": Member states were not obligated to implement the standards set forth in the directive but had to approve vehicles from other member states that met those standards. Although the Council amended its landmark 1970 motor vehicle emissions directive several times, the standards set by the amendments lagged behind those set in other large markets, notably the United States. The Commission and Council entered into an extended debate over updating EC emission standards in 1988 and 1989 with member states split over whether to introduce stricter standards for small cars (there was strong opposition from France and Italy, whose producers would be most affected). Eventually, bowing to pressure from the EP and the Dutch government, the Council adopted a directive requiring cars marketed in the EU after January 1, 1993, to meet standards equivalent to those prevailing in the United States (in other words, all new cars must be equipped with catalytic

converters).⁵⁰

A subsequent directive further tightened standards and called on the Commission to propose even stricter guidelines by mid-1996. The Commission did so, but the Council and the EP failed to reach agreement by the end of 1997, as stipulated in the 1991 directive. Apart from setting strict auto standards, the Commission has also concluded that further improvements in vehicle emissions will have to come from sources other than cars themselves. For instance new fuel mixes, better mandatory maintenance and inspection, and reduction in the use of cars.

• ***Protection of the ozone layer:***

As concern grew over the effect of widely used chlorofluorocarbons (CFCs) on the earth's protective ozone layer, the EC took steps to limit use of CFCs in the early 1980s. The Commission and member states participated in the negotiation of the 1985 Vienna Convention for the Protection of the Ozone Layer, the 1987 Montreal Protocol (which created a mechanism for limiting use of CFCs and other ozone-damaging chemicals), and subsequent protocols tightening these restrictions and accelerating the phaseout of some substances. Regulations in 1991 and 1994 on substances that deplete the ozone layer implemented the Montreal Protocol.

• ***Water:***

Several major pieces of legislation concern waterquality. Building on a 1976 framework directive the EC enacted most of its legislation on water quality during the next decade and passed updated legislation in the 1990s. The Commission began in the mid-1990s an attempt to consolidate diverse pieces of water legislation under a single framework directive. This initiative met with grave resistance from green campaigners who saw it as likely to repeal existing rules without replacing them with comparably tough policies.⁵¹ Eager to consolidate various water-quality initiatives, in February 1996 the Commission issued a communication on EU water policy, setting out objectives, principles, and proposed measures. Chief among these was a framework directive for water resources,

⁵⁰Dinan, Desmond, 1999, "*Beyond the Marketplace; An Introduction to European Integration*", Palgrave, New York, p.412

⁵¹Bomberg, Elizabeth, 1998, "*Green Parties and Politics in the European Union*", European Public Policy Series, Routledge, London/New York, p.44

proposed by the Commission in February 1997, laying down quality standards to be achieved by December 2007.

In addition, major horizontal directives cover the quality of drinking water , bathing water , discharges to groundwater , quality of water containing freshwater fish and shellfish , surface water for drinking , and treatment of urban wastewater . In the Commission's view, the urban wastewater directive represents a departure from the traditional emphasis on quality standards and discharge limits and embodies a more general approach to confronting water pollution. It requires member states to provide for treatment of all urban wastewaters within a specific time frame.

- ***Waste:***

The EU's wastepolicy has three main environmental objectives: to recycle and reuse waste to a maximum extent; to reduce the quantity of unrecoverable waste. The EU began regulating waste disposal (hazardous and nonhazardous) in 1975 with adoption of a framework directive that defined waste in general terms and required member states to specify competent authorities and set up permit systems for waste disposal. A series of directives dealing with specific areas of waste disposal, relating mainly to hazardous wastes, followed the original framework directive:

- ***Toxic and dangerous waste (1978):***

This directive required member states, producers, holders, and disposers of toxic wastes to keep close track of the movement and disposal of those wastes through the use of permits and extensive documentation. A subsequent Council directive defined hazardous waste, established general requirements for facilities that deal with it, tightened documentation requirements to include registration of all wastes discharged at waste sites, established a consignment note system for transfer of such wastes, and restricted mixing hazardous wastes with each other or with nonhazardous wastes.

- ***Transfrontier shipment of hazardous waste:***

This directive created a system of compulsory prior notification and authorization for transport of hazardous wastes across national borders, including uniform documentation requirements.

The Commission made its first attempt into reduction of nonhazardous waste with a directive requiring member states to draw up a four-year program to reduce the contribution of beverage containers to the waste stream. In 1989, with the release of a communication on EC strategy for waste management, the Commission took a broader approach, promising to make a series of proposals covering multiple aspects of waste management.

Among these, the directive on shipments of waste is probably the most important. Numerous disputes over EU competence and national sovereignty delayed adoption for well over a year. In its final version, the regulation covers shipments between states only, although it obliges governments to establish "an appropriate system" for control of shipments within their own borders and to notify the Commission of that system.⁵²

⁵²Dinan, Desmond, 1999, *Beyond the Marketplace; An Introduction to European Integration*, Palgrave, New York, p.415

2.6 IMPLEMENTATION AND ENFORCEMENT

Enforcement is a critical problem in the search for an effective EU environmental policy. differing legal regimes, economic concerns, degrees of public concern, and levels of political interest among member states have contributed to uneven implementation of environmental directives throughout the EU. Until the European Environment Agency became fully operational in 1995, the Commission was hampered by a dearth of reliable data on the state of the environment in Europe.⁵³

The Fifth Action Programme (1993-2000) crystallized the Commission's move away from the traditional 'command and control' approach. Reflecting the increased influence of economic concerns in the Commission, the economic effects of the Fifth Action Programme itself were evaluated. The traditional approach was viewed as economically inefficient. The pressure for new ways of regulating came from a variety of sources, including firms worried about their competitiveness, and was reinforced by the emphasis on regulatory reform within the EU. Although NGOs were originally sceptical about these new instruments, they gradually became more accepting. Whilst member governments have experimented with a wide range of such instruments, the Commission has advocated using eco-audits (environmental management systems), eco-labels, and voluntary agreements.⁵⁴

Proponents of subsidiarity argued that many directives had gone beyond what could be justified at the European level, and hence that certain elements of environmental policy should be 'renationalized'. In contrast, those in favour of tough standards tended to advocate a strong European legislative framework. This argument has had an impact. Some important proposals were withdrawn by the Commission. Framework directives became more widely used, thus giving national governments more latitude.⁵⁵

⁵³Dinan, Desmond, 1999, *"Beyond the Marketplace; An Introduction to European Integration"*, Palgrave, New York, p.417

⁵⁴Wallace, Helen & Wallace, William, 2000, *"Policy-making in the European Union"*, Oxford University Press, p.311

⁵⁵Ibid, p.308

EU environmental policy is often contested and negotiated more in the opaque world of comitology than it is at the higher level of policy debate between the Commission, Council, and the Parliament. In practice the quality of implementation varies a great deal between countries and from case to case. Thus real gaps exist in the implementation of environmental directives so much so that it is widely accepted that there is an 'implementation deficit, and that compliance is a real problem. NGOs and individual citizens, do, however, send complaints to the Commission about non-compliance, and the Commission can then bring pressure on the member government to improve its record. Although the implementation deficit is clearly a problem for environmental protection, it is harder to judge its significance for the process of integration more broadly. The EU is a complex and multi-layered system of governance, which cannot operate like a unitary state. Hence the problems of implementation seem to be mainly related to the characteristics of its member states.⁵⁶

The Commission usually learns of violations of EU environmental law - or laws related to the environment - only if it receives a complaint from an individual, NGO or other interested party. In many cases, public complaints provide the impetus for infringement proceedings by the Commission against Member States. But the lengthy information-gathering process, combined with the heavy caseload of the European Court of Justice (ECJ), explains why an average of about four years separates the arrival of a complaint about an alleged violation of an environmental directive and a ruling by the ECJ. Before resorting to the Court, the Commission may, in some cases, accept a government's case for delay. This step is usually taken because of the high costs that full implementation would entail.⁵⁷

⁵⁶Wallace, Helen & Wallace, William, 2000, "*Policy-making in the European Union*", Oxford University Press, p.307

⁵⁷Bomberg, Elizabeth, 1998, "*Green Parties and Politics in the European Union*", European Public Policy Series, Routledge, London/New York, p.53

EU's most successful policy tool generally has been the directives which are binding only as to the result to be achieved, leaving national authorities to choose forms and methods of application. EU environmental law can be applied flexibly by developing proposals that fit existing national legislation and administrative practices. The price of such flexibility is often policy incoherence, lax implementation and even outright noncompliance. One difficulty is that the Member States vary widely in their experience of adopting and implementing environmental legislation on the national level. Administrative styles influence the chance of successful implementation.

In sum, implementation of EU environmental policy is inhibited by wider disagreements between the EU and its Member States over policy scope, content and direction. It is further complicated by inequalities in levels of environmental priorities in different Member States, considerable differences in institutional structure, different styles of policy implementation and the lack of effective enforcement procedures.

2.7 ASSESSING EU ENVIRONMENTAL POLICY

The formulation of environmental policy is multi-layered and characterized by complexity because of the nature of the issues which are being dealt with as well as the many constraints on the policy process itself. The EU is searching for a policy-making strategy which will eliminate some of the constraints which these characteristics present. There are three issues which the policy makers have to resolve in this search: first, to establish that there is a need for the EU to take action on environmental protection; second, to ensure that there is commitment and willingness to act among the national governments; and third, to obtain enough resources to make the policy work.⁵⁸

The protection of the environment by the EU has become so extensive and so intrusive that policy-making in this sector is now very much shaped by the impacts of previous legislative achievements. Environmental policy is now one of the major policy areas in which Brussels plays a critical role. Institutionally, environmental legislation, now subject to QMV rather than unanimity, is easier to adopt, but the political commitment to impose stringent and intrusive regulations through command and control processes has diminished very significantly.⁵⁹

Given that it has a policy-making process which is characterized by complexity, the EU appears to have become a major player in an international environmental context. The EU's achievements in the area of environmental policy since 1972 have been remarkable. There have been more than 200 directives adopted, plus 200 or so other measures. However, the policy-making process continues to display potential for major problems relating to fragmentation and lack of policy coordination. The effectiveness of the policy measures is undermined by the inadequacy of implementation and enforcement by the national governments. Despite the progress which has been made on the introduction of environmental protection measures, the economic imperative continues to provide the context in which

⁵⁸Barnes Pamela M. & Barnes Ian G., 1999, *“Environmental Policy in the European Union”*, Edward Elgar Publishing, p.95

⁵⁹Wallace, Helen & Wallace, William, 2000, *“Policy-making in the European Union”*, Oxford University Press, p.294

policy is formulated. Furthermore, the EU's environmental policy has developed against a background of an increasingly crowded national policy space. It has therefore proved to be difficult on occasion to alter the focus of the policy quickly.⁶⁰

Although the EU has developed a strong regulatory regime in environmental policy, its success in integrating environmental concerns into other policy areas remains limited. This expansion in the EU's environmental remit occurred in response to pressures both from above (international negotiations and treaties) and from below (public opinion and member states).⁶¹

Overall progress towards integrating an environmental ethos into other EU policies has been slow and difficult. Whereas environmental policy has become more stringent in its own traditional domain, the impact of environmental considerations on other areas of policies often remains weak.⁶²

Policy making is often frustrated by the differing values and expectations of the actors involved. Whilst the institutional framework from which EU policy issues was not designed to deal with the specific and complex issues which are included in environmental policy, that framework was designed to deal with often conflicting national interests. What is clear is that on environmental issues the national governments of the member states have formed very stable policy communities, and environmental issues are often pursued because national policy initiatives force them on to the EU's agenda. The typical bargaining among governments concerned with how environmental protection affects the economic competitiveness of their firms and their public finances. Therefore to the extent that environmental policy intersects with issues connected to national sovereignty political coalitions shift.

⁶⁰Barnes Pamela M. & Barnes Ian G., 1999, "*Environmental Policy in the European Union*", Edward Elgar Publishing, p.97

⁶¹Peterson, John & Bomberg, Elizabeth, 1999, "*Decision-Making in the European Union*", The European Union Series, St.Martin's Press New York, p.173

⁶²Bomberg, Elizabeth, 1998, "*Green Parties and Politics in the European Union*", European Public Policy Series, Routledge, London/New York, p.49

The principle of subsidiarity has been proposed as the appropriate framework to provide the answer to the question of who makes the decisions within the EU. Decisions made as a result of the application of subsidiarity identify the most appropriate tier of government to tackle a particular problem. This establishes whether the need is for EU or national action and thus determines who the actors in the policy-making process should be. At the same time the transboundary nature of environmental problems makes the application of subsidiarity difficult and problematic. As environmental pollution is transboundary and environmental measures may act as barriers to trade in the internal market, this would seem to imply that all environmental action should be taken exclusively at the supranational level. The European Court of Justice has upheld the European Commission's view that the principle of proportionality of action should also apply as decisions are being made. Both principles are subject to a great variety of interpretation. As a result the national governments may try to use the subsidiarity principle to avoid the implications of supranational policy formulation. In its application there are opportunities for increased fragmentation as the environmental policy-making process continues to be dominated by national self-interest and lack of transparency. Decisions made during the forming of policy must be open to debate and scrutiny; otherwise the suspicion will remain that national governments are using the EU's environmental policy to support national self-interest and not to protect the environment.⁶³

With the expansion in the number of issues covered by the EU's environmental policy has come the opportunity and necessity for groups within the EU to gain access to the policy making process. DG XI (Environment) of the European Commission is actively engaging measures to increase the involvement of various interests in the policy process, for example green interest groups, consumer groups and industrialists. There are therefore advantages to be gained by finding some way of influencing the policy-making process. Lobbying at the national level is an important way of mobilizing support for an issue, as existing national policies play an important role in the design of EU policies.

⁶³Barnes Pamela M. & Barnes Ian G., 1999, "*Environmental Policy in the European Union*", Edward Elgar Publishing, p.95

Environmental interest groups can be effective lobbyists at both the national and supranational level. As the European Parliament has gained in its powers, the environmental groups have made the MEPs targets for lobbying. However, much of the lobbying done on behalf of the industrialists by professional lobby organizations and business associations targets the European Commission. Lobbying at an early stage of the design of policy has the most successful outcome. Once the negotiation process begins within the Council of Ministers, any flexibility in the system is lost as the vested national interests of all the member states begin to be brought to bear on an issue.⁶⁴

Still, from an essentially economic community with no firm legal basis for dealing with such issues, the EU has taken on an increasingly central role in policy sectors related to the environment and quality of life. Over the past 20 years, the EU has built up a substantial body of environmental law and has even embraced some green ideals such as the notion of sustainable development. Behind more than 200 environmental directives that tackle particular policy issues lies a strategic policy framework, provided by EAPs and Treaty articles, EU environmental policy can also be credited for having pushed a significant proportion of EU Member States further than they would otherwise have gone in areas of environmental protection, while creating provisions that allow other Member States to pursue stricter environmental standards than mandated by EU law. In addition to these the growing role of the EU has prompted a wide variety of green actors to seek access to and reform EU institutions and policies.⁶⁵

The first barrier to 'greenness' might be termed the 'integration gap', that is, the failure of environmental considerations to be integrated into decisions made in other policy sectors such as regional funding, transport or agriculture and the internal market. The second factor inhibiting policy development in environmental and related issues is the 'implementation gap'. Whilst an impressive legislative framework has been built up, there is no corresponding structure for environmental management. As a result, the

⁶⁴Barnes Pamela M. & Barnes Ian G., 1999, "*Environmental Policy in the European Union*", Edward Elgar Publishing, p.65

⁶⁵Bomberg, Elizabeth, 1998, "*Green Parties and Politics in the European Union*", European Public Policy Series, Routledge, London/New York, p.54

degradation of the EU's environment has continued. Third, whilst EU legislation might raise standards of 'laggard' states, might also effectively pull down or weaken the environmental legislation of 'leader' states such as Denmark, Sweden or The Netherlands. Indeed, fears that Sweden would have to accept diluted environmental regulations was a primary reason for the Swedish Greens' opposition to EU membership.⁶⁶

ASSESSING GREEN IMPACT IN THE EUROPEAN UNION

Comparing the strategies and policy role of green actors since the early 1980s, green actors have gradually become accepted as valid representatives for a public interest. Green NGOs and MEPs are now widely viewed by the public and other EU actors as legitimate representatives of environmental concerns. They have become established as the 'environmental watchdogs' of the EU. Green Euro-NGOs as well as Green MEPs have introduced themselves into the EU's policy-making process and made themselves more relevant by providing needed information, support or legitimacy. Most Euro-NGOs have been quick to adopt a more cooperative stance on EU matters.

The Greens' first difficulty springs from their continuing unease with the EU's policy-making structures and conventional cooperative methods of policy influence. Compared to their activities in the early and mid-1980s, Greens have undoubtedly become more willing to play by these rules. But many Greens continued to project the image of 'outsider'. The inability or unwillingness of Green MEPs to cooperate and compromise with other established actors is a prime feature of the green strategic problem. The second explanation for the Green's limited success refers more specifically to Green MEPs and is rooted in their lack of coordination with their parties and supporters back home. Despite attempts to foster contact with and among various movements, it is generally admitted that their contacts and activities do not create the expected 'web relationship' among movements and between the grassroots and MEPs. The final cause of the Green's limited success is Greens' lack a coherent European policy, for instance a shared set of goals and strategies to pursue within the EU. Greens' policy actions are

⁶⁶Ibid, p.54

often unconnected to any long term, collective green goal.⁶⁷

In short, the Greens have not sold out entirely to parliamentary structures and methods. Nor have they remained inextricably tied to their grassroots members. Most Green MEPs have only limited contact with their supporters back home. The Green Group thus cannot exploit fully its potential as a transnational representative of green movements. More specifically, it cannot use the resources potentially available to it: the knowledge, expertise, contacts and support of its overall membership. Greens thus hover between the grassroots and Parliament, answerable to both, but loyal to neither. Also the Greens' European policy suffers equally from a lack of basic consensus among its members about the goals to be pursued in Europe. Due in part to the limitations of green involvement in the EU, Greens have sought to extend their European policy and activities beyond the EU and its Member States. For instance, during the UNCED's Earth Summit in 1992, Green MEPs were key players in the 'First Planetary Green Meeting', an alternative summit attended by hundreds of NGOs and green activists.⁶⁸

⁶⁷Bomberg, Elizabeth, 1998, "*Green Parties and Politics in the European Union*", European Public Policy Series, Routledge, London/New York, pp.148-149

⁶⁸Bomberg, Elizabeth, 1998, "*Green Parties and Politics in the European Union*", European Public Policy Series, Routledge, London/New York, p.174

3. TURKEY FULFILLING ITS LIABILITIES ON THE EUROPEAN LEVEL

In order to evaluate the success of Turkey about fulfilling all international, regional and global liabilities, it is certainly necessary to carry out comprehensive works for each legal tool in detail. Turkey is successful enough about fulfilling the international environmental liabilities. One of the most important reasons of this situation is the subjective position of Turkey about environmental policies. As it is seen in many of countries which are under development, Turkey follows policies which give priority to development first. It is because of this approach could not been changed in the direction of environmental continuity by combining environmental and progressive targets, it is seen as the most important deficiency of Turkey about adaptation to international environmental policies.

In addition to this general policy deficiency, the other main reasons of Turkey's deficiencies about carrying out the international environmental liabilities under evaluation can be summarized as follows:

- It is clear that, it is necessary to have comprehensive information about all legal regulations which are at the supported part in order to evaluate the situation of Turkey about carrying out the international liabilities about environment. But as it occurred one more time while carrying out this work, the responsible establishments are in the mood of "institutional memory weakness" about this issue in general.
- An institutional system deficiency about environmental issues and the lack of environmental information systems makes for Turkey impossible for many times to reach detailed information and documentation that makes possible to trace actual development and changes about Turkey's international liabilities.
- The most important obstacles in front of Turkey in order to fulfill the liabilities at regional and global levels are the development deficiencies on institutional, financial, technical and political issues of environmental management. Just tracing these very comprehensive legal regulations as both qualitative and quantitative at a national level

is seen as an important difficulty because of capacity weakness on environmental management in Turkey.

- When it is observed from the international agreements in which Turkey takes part, Turkey is seen as relatively more sensitive in tracing and attending the progressive works of organizations especially in European constitution and also for supporting the agreements about nature, flora, fauna and biological species and protecting the historical values in the world and in international establishments which Turkey takes part as a member. The reason of this attitude is mostly because of Turkey has a richer historical inheritance and more diverted flora and fauna values than it is seen in all European continent. It can also be said that a similar attitude is relevant about the regional seas which surround Turkey. It is seen that Turkey is the leader in the works which target to protect the Mediterranean Sea and the Black Sea. For example, it is known that Turkey acted as a leader country in the period of the preparation and acceptance of all international legal regulations about protection of the Black Sea. Turkey showed its similar attitude for realizing an institutional establishment which will provide the coordination on international legal regulations which aimed the protection of the Black Sea and acted as the proprietor of the Coordination Center in Istanbul. It is also seen that Turkey continued to act as the leader about finding sources from international financial establishments for the “Strategic Action Plan” which was prepared for applying these legal regulations. It is also known that from the beginning of the Works for protection of the Mediterranean Sea, Turkey showed the same leadership attitude for the preparation of a protocol in terms of “Preventing the Pollution Caused by Overseas Transportation and Getting Rid of Waste” and gave financial support for realizing these legal regulations. Thus, this protocol is opened for assignment in Izmir in 1996 with the proprietor of Turkey.⁶⁹ But it is seen that Turkey did not sustain the same behavior about the continuity of diplomatic undertakings to come into force at international level and for the approval of this protocol at national level. That’s why; this causes an impression that Turkey does not have a stabilized and harmonious system with the regional importance which is provided by being a unique country which has the coast to both the Black Sea and the Mediterranean Sea.

⁶⁹TÜBA, 2002, “*Türkiye için Sürdürülebilir Kalkınma Öncelikleri*”, Ankara, pp. 20-21

- It can be put forward that Turkey hesitates less about accepting the legal regulations in terms of environmental international liabilities and especially the agreements which have the property of declaration and necessity. “The most important reason of this situation is; on the contrary of international agreements, these do not have the authority of law which has to be approved by the necessity of 90th article of the Constitution. These kinds of declarations are evaluated as the regulations which show the political qualified will conformity at regional and/or global level in terms of international Law and are qualified as liabilities which are needed to be obeyed by all member countries in terms of general law principles, ethic rules, traditional law and customs. In this context, it can be thought that Turkey relatively hesitates less to accept these kinds of declarations which are not obligatory in terms of International Law but have the property to indicate the general principles, targets and precedence and have the property to orient the state politics. Another reason of this attitude can be that Turkey does not want to be contrary to the international associations in which Turkey affiliates.⁷⁰

- Turkey is the member of many international organizations as OECD and West Group of United Nations which have completed the industrialization period in which included developed countries. But because of the main structural differences between Turkey and these developed countries; although Turkey accepts the common decisions “on paper”, it seems that Turkey is insufficient to apply these decisions. As being like a “Club of Wealth”, the common environmental politics of these organizations are the ones which aim to overcome and prevent the ecological problems which are caused by industrialization. On the other hand, Turkey has a dual structural property in terms of ecological problems: ecological problems of both developed and developing countries are seen in Turkey. But, ecological problems like the main environmental infrastructure deficiencies caused by being under development are much more important than the problems of the other member countries of these organizations. However, one of the common features of the members-except Turkey- of these organizations is, to be the main responsible on the occurrence of international regional and/or global ecological problems. So, in accordance with “common but differentiated responsibility” principle, these countries

⁷⁰TÜBA, 2002, “*Türkiye için Sürdürülebilir Kalkınma Öncelikleri*”, Ankara, pp. 19-20

have to have bigger liabilities for overcoming and preventing the global ecological problems. This situation which obliges Turkey to be responsible to overcome the ecological problems caused by other countries and which obliges Turkey to run with these countries in terms of common international liabilities is clearly in contradiction with the main principles about equity and justice of the international environmental politics.

- Another case which is effective to determine the attitude of Turkey in terms of supporting international legal regulations about environment is the politics that reflect the sensitivity and national interests in terms of transboundary waters and every international legal regulation which is related to this issue directly or indirectly, as in Naval Law Agreement. Turkey pays attention to be out of these kinds of legal regulations which can cause contradictions to Turkey's national interests. And this situation shows that, as in many other countries, the main actor of diplomacy of environment is the Ministry of Foreign Affairs.
- It can be said that Turkey seems hesitant to be supportive of international legal regulations which bring concrete liabilities to private sector in terms of preventing pollution. Turkey did not be a party of any agreements except than Vienna Convention on the Protection of the Ozone Layer and The Montreal Protocol on Substances that Deplete the Ozone Layer which give the country a certain time as the consistency period and provide financial source in terms of the gases that deplete the ozone layer. The most remarkable indicator of this situation for Turkey is being supportive for Convention on Long-Range Transboundary Air Pollution but not being supportive to the prepared protocols in order to make this convention practicable. It is not possible to suggest that attempts of private sector directly and systematically are effective on this case. It is seen that the actual identifiers of determining the national attitude are DPT by standing first on the list and other public concerns which direct the investments.⁷¹ For being supportive to this kind of regulations it can be thought that Turkey may aim to protect private sector with the inclusion of maritime business, from additional costs. But it is not considered enough that this situation can cause

⁷¹TÜBA, 2002, "Türkiye için Sürdürülebilir Kalkınma Öncelikleri", Ankara, p. 21

effects to reduce and even to cut out the competitiveness chance of Turkish private sector in international business trade.

Other than the reasons which are mentioned above, it can be suggested that some other reasons which affect the success of Turkey negatively, in terms of fulfilling the international environmental liabilities are caused by the properties of these regulations. The reasons which are derived from the complicated structure of these regulations and which cause problems in general for many of the supportive sides beside Turkey can be summarized as below.

- The numbers of regional, global and binary international legal regulations and programs are too much. There are several decisions similar and confirming each other in several legal arrangements. International global and/or regional bodies like UNEP, UNDP, UNESCO, UNECE, European Union, European Council, NATO and OECD have been developing common politics, programs, plans and norms on environmental issues for their members. Lack of coordination and cooperation between these legal arrangements and the programs developed discourage the success of these programs and cause waste of time and resource. Activities in several areas carried out by various organisations could lead to the coordination problems in execution on national scale and confusions thus creating disinterest.
- In accordance with these legal arrangements, the studies to be carried out nationally and internationally, precautions to be taken and the programs to be executed are set in line with the recommendations accepted in the intergovernmental conferences and meetings. To follow up such recommendations are also very difficult most of the time. However these recommendations could only be understood and followed up by the experts that have notion regarding the subject and procedures of such organisations. However, it is not possible to say that these recommendations are executed systematically on national level in the developing countries. On the other hand, delegates attending meetings in which such recommendations generated could be from various national institutions. Let alone these delegates are from the same organisations yet constant attendance becomes inevitable that causes the problems in cooperation on national scale.

- International legal arrangements and the national reporting systems of the programs are operated successfully. And yet these systems are not compatible.
- There are credentials of success in revealing the impact of these programmes.
- The other important and common weakness of all these programs lies in the financial problems. Expenditures of the programs and secretariat either supported by funds available to the program in question or international financial bodies or mutual donors. The most crucial fact decreasing chances in attaining the support for the regional, national activities and especially implementations on international basis.
- There is a necessity to empower mechanisms in “conformity and appropriateness” in order to facilitate the applications of the programs and international arrangements on national scale to facilitate. Such mechanisms should have the tools to enhance scientific, technical, financial capacities for the parties in question to conform to the arrangements. It is also necessary that there is a need to clarify in case irregularities against the breaching off the arrangements occur. The lack of reinforcement mechanisms towards the issues on national conformity and carrying out the responsibilities make disable the applications of these arrangements.

Turkey’s insufficiencies in conforming to the international environmental liabilities are important to be discussed in context of its application for the EU full membership status. In the full membership process the EU regulations which Turkey has to conform to also include the international environment provisions of which EU has partaken. In this regard, Turkey has to consider the treaties on environmental issues of which it is not part of but EU. In review of the National Program declared in the Official Gazette dated 7 Aug 2003 modifying various laws in the process conformity to the EU the following scopes that reveal Turkey’s not participatory role and on the contrary EU’s official recognition:

Table 3.1: Promises made by Turkey in the Domain of Environment

Framework Convention on Climate Change, the Kyoto Protocol	The process in taking part of the protocol is yet to finalize. The protocol will be reviewed in line with the conditions of the country.
Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam, 10.9.1991)	Signed in 1998 the protocol will go into force following the implementation with the Directive for Hazardous Chemicals, 67/548/EEC and 99/45/EEC
Stockholm Convention on Persistent Organic Pollutions	Signed in 2001, approval process will begin following the operational plan and partaking in the PIC protocol.
Protocol on Long-range Transboundary Air Pollution Concerning the Control of Emissions of Nitrogen Oxides or Their Transboundary Fluxes (Sofia, 31.10.1998)	Although the content of the protocol is supported yet its materialisation and application implies large-scale infrastructure and financial need. For this reason it cannot be taken into consideration in the period of the National Program.
Protocol Concerning The Control Of Emissions Of Volatile Organic Compounds Or Their Transboundary Fluxes To The Convention On Long-Range Transboundary Air Pollution (Geneva, 18.11.1991)	Although the content of the protocol is supported yet its materialisation and application implies large-scale infrastructure and financial need. For this reason it cannot be taken into consideration in the period of the National Program.
Protocol on Long-range Transboundary Air Pollution Concerning the Reduce of Emissions of Nitrogen Oxides (Oslo, 13.6.1994)	Although the content of the protocol is supported yet its materialisation and application implies large-scale infrastructure and financial need. For this reason it cannot be taken into consideration in the period of the National Program.

Protocol on Long-Range Transboundary Air Pollution On Heavy Metals (Aarhus, 24.6.1998)	Although the content of the protocol is supported yet its materialisation and application implies large-scale infrastructure and financial need. For this reason it cannot be taken into consideration in the period of the National Program.
Convention on Persistent Organic Pollutants and Long-range Transboundary Air Pollution	Although the content of the protocol is supported yet its materialisation and application implies large-scale infrastructure and financial need. For this reason it cannot be taken into consideration in the period of the National Program.
Convention for the Protection of Vertebrate Animals Use for Experimental or Other Scientific Purposes	Convention was approved on 5 Sep 1986.
Convention for the Protection of Wild Migratory Animal Species (Bonn, 23/6/1979)	being evaluated to participate in coordination with the Ministry of Forest and Environment
Convention on Environmental Impact Assessment in a Transboundary Context	To be evaluated together with membership
Convention on the Protection Use of Transboundary Waters and International Lakes	To be evaluated together with membership
Convention on the Transboundary Effects of Industrial Accidents	Being evaluated by the Ministry of Forest and Environment. Liabilities of the Agreement imply large-scale infrastructure and financial need.
Agreement on International Tropical Timber	Cannot be taken into consideration preliminarily in the course of the present National Programme.
Convention for the Protection of Africa-EurAsia Migratory Water Birds	Cannot be taken into consideration preliminarily in the course of the present National Programme.

Convention on Accession to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters	To be evaluated together with membership
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Source: Doc. Dr. Nesrin Algan and Ayse Kaya Dundar, 2003, "Turkiye'nin Cevre Konusunda Verdigi Sozler", Turkiye Bilimler Akademisi Raporlan, Ankara.

In review of the above table it seems that Turkey can not evaluate in the course of the National Program, due to insufficiency in funding for the environmental issues necessitated infrastructure to fulfill the arrangements. Another crucial issue is that Aarhus Convention regulating the accession to information and access to justice in environmental issues being available to all individuals regardless of being citizen of the homeland or other, and the other two conventions on transboundary water matters that all these issues will be considered once Turkey attains full membership. This brings about the importance for the matters on "national sensitivity" explicitly.

The situation of Turkey in terms of international regulations about climate change which is in the scope of EU is another and special field of study in the context of environmental diplomacy. United Nations Framework Convention on Climate Change which came into force on March 21st, 1994 aims at stopping the aggregation of greenhouse gases in the atmosphere at the level of preventing the dangerous effect on human beings on climate system. According to the Convention, while the developed OECD member countries which are called as "Annex-I Countries" engaged to decrease the oscillation of greenhouse gases to the level which was at 1990; the other OECD member countries which are called as "Annex-II Countries" engaged to give financial support to developing countries in this process. Later on, because of the deficiencies on the sanctions of the Convention, the Kyoto Protocol was opened for signature in 1997. The Kyoto Protocol which aims to decrease the oscillation of greenhouse gases of Annex-I Countries at a level of 5% when compared to the level which was in 1990 have not been able to come into force because of the objection of the US.

Turkey could not repeat its successful environmental diplomacy in deliberations of Climate Contract although Turkey did it during the preparations of Ozone Contract but the country took place at Annexes I and II as a result of its OECD membership. This situation caused Turkey not to sign the contract on the legal ground that Turkey is a developing country in terms of both oscillation of greenhouse gases and degree of development and taking place at both of the annexes affects development efforts negatively and being responsible of the same liabilities with developed countries in terms of oscillation of greenhouse gases is contrary to the principle of common but differentiated liability. It was seen that some other countries which are on the way of development abstained from fulfilling their liabilities although they have been supporter towards the contract by declaring that “Turkey did not attempt for any international engagement although being an OECD member” and this situation made Turkey being in a difficult situation both in OECD and in West Group of United Union. In all sessions in which supporter members attended in between 1994 and 2001, Turkey who attended as an observer tried to apply special climate diplomacy in order to leave out these annexes. Turkey who does not have the right to offer a revision because of not being a supporter of the contract tried to bring up this attempt in order to leave out these annexes through the medium of supporters, Pakistan and Azerbaijan. But these attempts were not successful because of the counter deterrence of supporters and especially the EU. Turkey changed its attitude about deletion of her name from Annexes I and II at 7th Conference of Parties in Marrakesh in 2001. According to the decision taken during in this conference, Turkey was accepted as an Annex I country by considering her situation different from that of other parties included by recognizing the special circumstances of the country. In this context, Turkey engaged to give out regular declarations to the Secretary about the oscillation of greenhouse gases and to develop precautions and policies on the issue of controlling the oscillation of greenhouse gases and so Turkey has got out her liability to provide financial and technical support to developing countries. The participation of Turkey to United Nations Framework Convention on Climate Change was approved with the statute 4990 on October 16th, 2003 and appeared in the official journal no. 25320 on December 18th, 2003. According to the clauses of the Convention, the time for Turkey to be a party of the Convention on Climate Change was completed on May 24th, 2004 which was the 90th day following the official declaration to the Secretary about being a party. How Turkey would establish the

financial, institutional, technical and scientific infrastructure which would provide Turkey to build up precautions for controlling the oscillation of these gases in order to fulfill the liabilities in terms of the Convention clauses is another field of study. ,

It can be said that one of the most important criteria on the evaluation of the success of Turkey about fulfilling her international environmental liabilities is her enforcements on the period of EU participation. In this context, the targets of the National Program which can be qualified as an international engagement on EU orientation. But more important than these targets is their situation on application. In “2003 Regular Report on Turkey’s progress towards accession to EU” which was published on November 5th, 2003 that evaluated the period until September 13th, 2003, it was declared that the progress on environment is limited for Turkey. It is particularly remarkable that it was said “no progressive attempt was observed on the field of integration of environmental protection to other policies”. As it was highlighted at the beginning of our evaluation, the most serious deficiencies of Turkey on fulfilling the international environmental liabilities were derived from the non-integration of environmental protection target to other sectoral policies as agriculture, industry, energy, transportation, tourism, welfare, education, urbanization and foreign trade. And this needs a political will power which will provide a radical change on the perception of “development”.

It is known that the environment is used as a tool in the political and economical battles which are the main identifiers of international relations. The most important signs of this situation are the assemblies of World Trade Organization which were held recently. It is necessary for Turkey to show more sensitivity in the period of fulfilling her engagements than undertaking these international environmental liabilities. It has to be evaluated not just accordance with being a tool for defending her national profits but also accordance with the environment right which is under constitutional assurance. In this context, the period towards the accession to EU for Turkey should be transformed into an opportunity for the consistency to international EU environmental policies and its acquis communautaire.

4. ENVIRONMENTAL NGOs LOBBYING IN THE EU

4.1 ENVIRONMENTAL NGOs IN BRUSSELS

In the environmental field in Brussels, nine groups make up the so called “G9 environmental NGOs”. The members are; European Environmental Bureau (EEB), World Wide Fund for Nature (WWF), Friends of the Earth Europe (FoEE), Greenpeace, European Federation for Transport and Environment (Tt&E), Birdlife International, Climate Action Network Europe (CAN) and Friends of Nature International (IFN). Although they work individually they sometimes unite to create a stronger influence on the EU’s law-making institutions (Commission,Parliament,Council of Ministers) and participate in several different Commission expert groups and also committees. G9 is a co-ordinated network of nine of the largest European environmental organisations who 'coordinate joint responses and recommendations to EU decision makers. Their scientific and resource bases are formidable, and they have long been agents of monitoring and enforcement of environmental laws.

When approaching the EU institutions G9 NGOs encourage the full implementation of EU law and policies and lobby for new environmental drafts.On the other hand they work actively for raising the public awareness and for disconnecting the economic growth from environmental degradation.

They meet every six to eight weeks for purposes of information swapping and co-ordination, periodically with the Cabinet of DG Environment, and with the President of the Commission. Most have excellent links throughout DG Environment.⁷²

The European Environmental Bureau (EEB) was established in 1974 and remained the only major environmental interest group active in Brussels until the mid-1980s. Thereafter, Friends of the Earth Europe, Greenpeace and the World Wide Fund for Nature (WWF) each established a Brussels office. The EEB, Friends of the Earth, the WWF, and Greenpeace were known as the 'Gang of Four', and they worked closely with

⁷²Corcelle, Guy & Johnson, Stanley P., 1997, “*The Environmental Policy of the European Communities*”, London, Kluwer Law International, p.192

DG XI (the first three groups also received Commission funding to help sustain their operations). Later the group has now expanded to the 'Gang of Nine' with the addition of BirdLife International, Climate Network Europe, and the Transport and Environment Federation, Friend of Nature International (IFN).⁷³

4.1.1 THE EUROPEAN ENVIRONMENTAL BUREAU (EEB)

Collaborative action among some of the environmental NGOs led to the establishment of the European Environmental Bureau (EEB) in 1974. This was following the adoption of the First EAP when the European Commission (particularly DG XI) realized the importance of an NGO movement as a counterweight to the industry lobby. At the end of the 1990s the EEB was a federation of 140 NGOs from 24 countries.

As the EEB has a base in Brussels, it has more direct access to the European Commission and the European Parliament than nationally based groups which might be involved in the formulation and monitoring of environmental policy. It has a small permanent staff and the primary objective of the federation is to monitor the performance of the institutions of the EU on environmental issues and to ensure that environmental protection is integrated into other aspects of EU policy. Specific measures which have been the subject of special reports by the EEB include the environmental management and audit regulation and the EU's eco-labelling scheme.⁷⁴ EEB has a consultative status at the Council of Europe and United Nation Commission on Sustainable Development and has working relations with the Commission of European Union, the European Parliament, the Economic and Social Committee of the European Union and the OECD.

⁷³Wallace, Helen & Wallace, William, 2000, "*Policy-making in the European Union*", Oxford University Press, p.304

⁷⁴Barnes Pamela M. & Barnes Ian G., 1999, "*Environmental Policy in the European Union*", Edward Elgar Publishing, p.116

The EEB is a good network organization for its members, and as an organization in its own right is well networked with other environmental NGOs on the global stage. As an organization geared to addressing the EU political institutions rather than a social movement, it has a wide-ranging set of institutional contacts. The EEB receives around half of its total funding from the European Institutions and has institutionalized its presence across a range of advisory committee structures. Apart from meetings with the Presidents of the Commission and the Council, the EEB is a member of Commission delegations at Earth Environmental Summits.⁷⁵

The need for the EEB to share its space alongside other environmental activists, together with the confederated nature of its structure and wide membership, have been the source of the organization's principal difficulties. Its diverse membership ranges from the Sea Turtle Protection Society of Greece to the European Union Federation of Youth Hostels Associations. Inevitably, this makes common platform building difficult and the organization rather slow and reactive.

In addition to that, its influence has been diluted since other environmental NGOs established Brussels offices and the EEB has not always welcomed the leadership the latter have sometimes given on particular environmental issues. The WWF and the Birdlife International Network have come in for particular praise from a number of senior institutional figures comfortable with working alongside organizations whose constructive profiles are less confrontational than other NGOs. The strong resource bases also enable them to engage in policy making at a highly technical scientific level.⁷⁶

⁷⁵Corcelle, Guy & Johnson, Stanley P., 1997, *"The Environmental Policy of the European Communities"*, London, Kluwer Law International, p.193

⁷⁶Ibid, p.193

4.1.2 WORLD WIDE FUND FOR NATURE (WWF)

The WWF, officially created in September 1961, is a private foundation with its headquarters located at Gland, Switzerland since 1979. Its objective is to collect, manage and dispense funds for the global conservation of the natural environment of animals, plants, countryside, water, soil, air, and other natural sources.

The WWF has something of an establishment image as the world's largest and best-established field-based nature conservation organization and its European office has been seeking to position itself more as a policy and advocacy oriented NGO.

Besides the normal institutional organs-administrative council, executive committee, director general-WWF has the unusual feature of an International Council composed of 23 representatives of national organizations, most from industrialized countries, but also from India, Malaysia, and Pakistan. These representatives play a prominent role in the activities of the WWF, notably in collecting funds for conservation. Funds are allocated to different projects for maintaining and protecting tropical forests, wetlands, savannas, and the marine environment. Part of the operations are done in collaboration with inter-governmental organizations like UNEP, especially for implementing and financing joint programs.

WWF and IUCN annually draft a common strategy, taking decisions on certain programs in common. In international legal actions, WWF supports the application of existing norms. It is particularly interested in the directive implementation of CITES. WWF also has played an important role in the elaboration and implementation of the IUCN World Conservation Strategy.⁷⁷

⁷⁷Kiss, Alexandre, Shelton, Dinah, 2004, "*International Environmental Law*", Transnational Publishers, Inc. Ardsley, New York, p.170

Besides using its established channels in the national delegation offices in Brussels, it has resorted to the European Court of Justice where necessary to take action against Member States for environmental violations of structural fund initiatives. It has also played an important whistle blowing role, such as providing the European Investment Bank and the Court of Auditors with video evidence of environmental violations arising from use of the structural funds in Spain . In addition, it also makes use of its mass-membership base through letter-writing campaigns.⁷⁸

⁷⁸Corcelle, Guy; Johnson, Stanley P., 1997, *“The Environmental Policy of the European Communities”*, London, Kluwer Law International, p.194

4.1.3 INTERNATIONAL UNION FOR THE CONSERVATION OF NATURE (IUCN)

The World Conservation Union (formerly the International Union for the Conservation of Nature and Natural Resources) was created in 1948 at the initiative of the French government. IUCN has the unique quality of being a non-governmental organization made up of conservation groups, states and other public law entities. IUCN is a federative membership organization, consisting primarily of governments or their agencies but also including scientific, professional, and conservation bodies such as the World Wide Fund for Nature (WWF), with which IUCN has a close association. The diversity of its membership is unique among environmental bodies, comprising 79 states, 149 government agencies, 690 national NGOs and sixty-eight international NGOs. In all, approximately 117 countries are represented either by official organs or otherwise. It's like a hybrid organization, neither exclusively intergovernmental nor wholly non-governmental in character.

The objectives of the Union are to evaluate the status of renewable natural resources and the revolution, to encourage the preparation of conservation measures, and education about conservation, and to provide information to members of IUCN and different groups which collaborate with the Union.

The structures of IUCN strongly resemble those of inter-governmental organizations. A General Assembly of the members meets once every three years. A Council elected by the Assembly examines the execution of the program and between meetings a secretariat works in the name of the Union. Resolutions which members adopt are presented to governments and relevant bodies, however; they are not binding and it has no enforcement mechanisms. It operates mainly through numerous standing commissions and committees. One unusual aspect of IUCN is the importance to its work of six commissions, coming from its 3,000 volunteer experts. A commission on environmental policy and law is responsible for questions of environmental law.

IUCN's hybrid character has helped it to play a catalytic role in initiating or supporting new legal developments including recommendations to governments. Since 1980 IUCN has repeatedly published a World Conservation Strategy which has been highly influential. It early perceived the need to link environment and development and prepared the IUCN/WWF/UNEP World Conservation Strategy, published in 1980, in which FAO and UNESCO also collaborated. It is addressed to public authorities and encourages them to integrate conservation of living resources in their development policies, because the latter will not be lasting unless they are founded on the conservation of renewable resources. The Strategy states the principal conditions necessary to resolve problems such as depletion of agricultural land, erosion, deforestation, desertification, climate modification, extinction of living species, reduction of the genetic heritage, and pollution and proposes effective means to attain the objectives of (1) maintaining essential ecological processes and systems supporting life; (2) preservation of genetic diversity; and (3) sustainable utilization of species and ecosystems.⁷⁹

Although IUCN's mission is primarily to provide advice and expertise, it helps governments develop international declarations and conventions. It seeks, as far as possible, to fill gaps in legal developments, or to co-operate with other organizations in preparing drafts, or in commenting on them, and to provide expert advice and support to developing countries in the drafting of national laws and regional conventions.⁸⁰

The Union has played an essential role in the elaboration of some half dozen of the major international conventions relating to the conservation of nature and natural resources, such as the 1968/2003 African Convention. The IUCN also prepared the first draft of the 1982 World Charter for Nature and, since the end of the 1980s, has worked on elaborating a comprehensive Covenant on Environment and Development. Finally, the legal office of IUCN, located in Bonn, has a virtually complete collection in its library of international instruments, acts of international organizations, national legislation, and other documents concerning environmental law, as well as hundreds of

⁷⁹Kiss, Alexandre, Shelton, Dinah, 2004, "*International Environmental Law*", Transnational Publishers, Inc. Ardsley, New York, p.169

⁸⁰Birnie, Patricia & Boyle, Alan, 2002, "*International Law and the Environment*", Oxford, New York, p.68

secondary sources on the subject.⁸¹

4.1.4 GREENPEACE

It was pollution-specifically that created by fall out from atmospheric nuclear tests-which led to the creation of Greenpeace, the most overt of the direct action groups. American plans to explode a nuclear device on Amchitka Island (off the coast of Alaska) in 1971 encouraged a group of American environmentalists to protest by sailing a fishing boat into the area, thereby contributing to the postponement of the test and the eventual cancellation of all tests on Amchitka. Similar tactics were subsequently used by the group, which ultimately named itself Greenpeace, to protest French nuclear tests in the Pacific. In many cases it has adopted the same tactics of direct action, such as attempting to obstruct the disposal at sea of nuclear waste, or sealing in the Arctic. The key to its activities is the generation of graphic and visually effective media publicity.⁸²

Whereas WWF and Birdlife are 'light' green, FoEE and Greenpeace are more medium to dark green. Greenpeace is perhaps the most aggressive of the G9, geared to direct-action campaigns and boycotts, although it has also learnt how to interact with the European institutions. It has enabled politics to triumph over science, when its mass letter-writing campaign over the drinking water directive helped achieve an EP amendment about pesticide limits which the Commission accepted despite the opinion of its own scientific adviser.⁸³

⁸¹Kiss, Alexandre, Shelton, Dinah, 2004, *"International Environmental Law"*, Transnational Publishers, Inc. Ardsley, New York, p.170

⁸²Mccormick, John, 1993, *"International Non-governmental Organizations: Prospects for a Global Environmental Movement, Environmental Politics in the International Arena"*, State University of New York Press, New York, p.139

⁸³Corcelle, Guy & Johnson, Stanley P., 1997, *"The Environmental Policy of the European Communities"*, London, Kluwer Law International, pp.194-195

Greenpeace is independently founded and does not accept donations from the governments; also it's the only G9 NGO that receives no fund from the European Commission. It relies on contributions from individual supporters and foundation grants.

4.1.5 FRIENDS OF THE EARTH (FoEE)

FoE was founded in the United States in 1969 following a disagreement between one of the oldest and most influential of the traditional American NGOs-the Sierra Club and its executive director, David Brower. It adopted vigorous campaigning methods aimed at achieving maximum publicity and drawing attention to activities and ventures that threatened the environment.⁸⁴

The European branch of Friends of the Earth Europe is the world's largest grassroots environmental network uniting 73 national member organizations and more than 5,000 local activist groups on every continent whose aims extend beyond the environmental domain into areas such as the achievement of social, economic and political justice, and who emphasize strong dialogue from the point of view of conviction. Its EU office has concentrated more on institutional contacts with the Commission and the Parliament, where it has a reputation as a valuable contributor of information, than on seeking to mobilize the movement's grass roots base. This illustrates the tendency for radical social movements to become tamed over time as they engage, become incorporated in, and influenced by the routines of, institutional political decision-making.⁸⁵

⁸⁴Mccormick, John, 1993, *“International Non-governmental Organizations: Prospects for a Global Environmental Movement, Environmental Politics in the International Arena”*, State University of New York Press, New York, p.138-139

⁸⁵Corcelle, Guy & Johnson, Stanley P., 1997, *“The Environmental Policy of the European Communities”*, London, Kluwer Law International, p.195

4.1.6 CLIMATE ACTION NETWORK EUROPE (CAN)

CAN is a non-profit organization operating since 1989 for environmental groups in Western Europe, working on climate change issues. It supports and empowers civil society organizations to influence the development of an effective global strategy to reduce greenhouse emissions and ensure its implementation at all levels in the promotion of equity and sustainable development. It works by way of political lobbying not only with Environment DG also with Agriculture, Energy and Transport DGs as a result of climate change involving various issues. CAN acts as a source of information by providing forums, strategies on climate change and promoting actions; also monitors and encourages the implementation policies and measures.

4.1.7 BIRDLIFE INTERNATIONAL

BirdLife International is a global partnership of conservation organizations which strives to conserve birds, their habitat and global biodiversity working with people towards sustainability in the use of natural sources. It is the world authority on the status of birds, their habitats and any conservation problems that endangering them. The way BirdLife International works is through conservation science, action on the ground, advocating change, developing capacity and building awareness.

BirdLife has a mass membership base, with one million members in the UK alone which it has used in EU politics. In recent years, it has presented a petition to the European Parliament with two million signatures, the largest ever of its kind, aimed at stopping the modification of the Birds Directive to extend hunting seasons, and claims this as a contributory factor in the withdrawal of its proposal by the European Commission. Like WWF, Birdlife also has the status, resources, and establishment reputation to work institutionally.⁸⁶

⁸⁶Corcelle, Guy & Johnson, Stanley P., 1997, *"The Environmental Policy of the European Communities"*, London, Kluwer Law International, p.194

4.1.8 FRIENDS OF NATURE INTERNATIONAL (IFN)

IFN unites more than 50 national organizations within a broad network of regional and local groups, focusing on sustainable development, a professional commitment to the protection of the nature and the environment and developing various forms of eco-tourism in theory and practise. It works by way of political lobbying at the international level, with the implementation of international projects, with information exchange and the coordination of joint activities engaged in by member federations and groups of partners, and with the provision of international services.

4.2 ENVIRONMENTAL NGOs IN THE INTERNATIONAL ARENA

The effectiveness of NGOs varies greatly according to their seriousness of purpose, funding, depth of research, skills in political advocacy, means of exercising pressure, and narrowness of focus, some have become increasingly effective at achieving consultative status at international and regional organizations where their representation and the personal lobbying of their representatives may, influence the negotiating process for conventions and resolutions. Increasingly they have 'networked' their activities, for example at the Rio Conference, where NGOs met to co-ordinate their policies and actions .⁸⁷

The extent to which NGOs can participate in and influence the work of international organizations depends on the constitution and practice of each organization, and varies considerably. NGOs are allowed to participate in meetings as observers only if they are concerned with matters within the competence of the relevant organ or organization. NGO participation remains controversial in some international organizations, notably the IAEA and WTO, due to opposition from some member states.⁸⁸

On the other hand, many NGO's act within international institutions, seeking to influence international decision-making, as well as within states, where they promote positive environmental policies. They represent their members in advancing their common values. Like individual members of the public, NGOs may compile data, seek to influence legislation, intervene in decisions on licensing or permitting projects, and monitor compliance with environmental laws. With these roles and because of their greater means, expertise, and organized efforts, NGOs often can effectively assert public rights of information and participation. They have a variety of assets, including access to funds, ability to attract media attention, and the ability to acquire, communicate and disseminate expert information. Most importantly, they possess a legitimacy and transnationalism that gives them influence and permits them to push the transparency of international institutions as they frame issues, build communities, and set examples, at their best becoming moral agents of change. Increasingly, too, they have become aware of their own needs for transparency and are becoming more public about funding sources,

⁸⁷Birnie, Patricia & Boyle, Alan, 2002, "*International Law and the Environment*", Oxford, New York, p.67

⁸⁸Ibid, p.67

membership and other governance issues.⁸⁹

Many NGOs obtain formal status in international institutions. Article 71 of the UN Charter provides that the Economic and Social Council may extend "consultative status" to international NGOs that satisfy criteria established by the United Nations. Such status entitles an NGO to access to UN meetings and conferences, and, in some instances, the right to intervene orally and submit written statements. NGOs were prominent at the Stockholm and Rio Conferences. At UNCED, 1,500 NGOs were accredited to attend formal meetings and some informal meetings. They were permitted to lobby, present documents and meet among themselves. NGOs also have been present at negotiations for the Kyoto Protocol and similar international agreements and have been afforded widespread observer status in international environmental treaties. They increasingly have a role in launching international inquiries.

Several environmental agreements recognize a formal role for NGOs. The Convention for the Protection of the Marine Environment of the North-East Atlantic granted observer status to NGOs along with non-party states and inter-governmental organizations. Article 4.1 of the Framework Convention on Climate Change (1992) provides that all parties shall "promote and cooperate in education, training and public awareness related to climate change and encourage the widest participation in this process, including ,that of non-governmental organizations."

Agenda 21

The strength of NGOs is often necessary to counterbalance powerful business interests, but the industry itself can contribute to the implementation of international environmental law. To strengthen the international role of NGOs, Agenda 21 called on the UN system, including international finance and development agencies, and all intergovernmental organizations and forums, in consultation with NGOs, to take measures to:

⁸⁹Kiss, Alexandre & Shelton, Dinah, 2004, "*International Environmental Law*", Transnational Publishers, Inc. Ardsley, New York, p.163

- Review and report on ways of enhancing existing procedures and mechanisms by which NGOs contribute to policy design, decisionmaking, implementation and evaluation at the individual agency' level, in inter-agency discussions and in UN conferences;
- On the basis of subparagraph above,enhance existing or, where they do not exist, establish mechanism and procedures within each agency to draw on the expertise and views og NGOs in policy and program design,implemetation and evaluation;
- Design open the effective means of achieving the participation of NGOs in the process established to review and evaluate the implemetaion of Agenda 21 at all levels;
- Provide access for NGOs to accurate and timely data and information to promote the effectiveness of their programs and activities and their roles in support of sustainable development.⁹⁰

Agenda 21 encourages the United Nations Commission on Sustainable Development to be open to NGO participation. All ECOSOC-accredited NGOs may designate authorized representatives to be present at and observe meetings of the Commission and its subsidiary organs. NGOs may at their own expense make written presentations to the Commission and its subsidiary organs. NGOs may be given opportunity to address the meetings, but have no formal negotiating role in the work of the Commission and its subsidiary organs.

Given their expanded functions, NGOs sometimes form alliances among themselves and also with inter-governmental organizations to help implement international environmental law. In the early 1980s, the World Wide Fund for Nature, IUCN and UNEP formed the World Conservation Monitoring Center to collect and provide information services on conservation and sustainable use of biological resources. The Monitoring Center now provides data management services for the CITES Secretariat, the World Heritage Convention, the Convention on Biological Diversity, the Convention on Migratory Species and the Ramsar Convention.

⁹⁰Kiss, Alexandre & Shelton, Dinah, 2004, "*International Environmental Law*", Transnational Puclishers, Inc. Ardsley, New York, p.164

The relatively homogenous character of the international order at the beginning of the last century has given way to an international system comprised of a highly diverse and enlarged group of states, international institutions, and non-state actors. All of them increasingly take part in making and applying national and international norms. Today, purely inter-state development of norms is probably non-existent in most fields of international law. It is also rare to find purely private standard-setting. The modes of interaction between state and non-state actors may be particularly important to achieving compliance with soft law norms, as a participatory process enhances the legitimacy and authority of the norms adopted. On occasion, NGOs may take on an official role in regard to monitoring and compliance. Unofficially, most of them serve as “watchdogs” in the process of adoption and implementation of international environmental law.

4.3 EU INSTITUTIONS AND LOBBYING

4.3.1 EUROPEAN PARLIAMENT AND LOBBYING

Environmental NGOs have a natural ally in the shape of the EP, whose members are quick to take up concerns popular with their electorate. Indeed, membership of the EP Environment, Public Health and Consumer Policy Committee is the most fiercely contested, and this Committee is among the most powerful of all the specialist committees of the Parliament in bringing forward amendments. Among NGOs, those lobbying on the environment were rated as the most effective.⁹¹

Perhaps the most noted 'success' of environmental interests with the EP concerns the Bio-patenting Directive of 1995, where intense lobbying activity contributed to an atmosphere in which the Parliament, using its new powers for the first time, rejected completely an industry-friendly Commission draft to permit the patenting of genetic modifications. Ahead of the vote, Greenpeace activists dangled a mouse with multiple legs from a bridge close to EP premises to make their point. Later, however, a completely new draft successfully returned to the Parliament against which its opponents made relatively little headway, and the difficulties of maintaining momentum emphasized the traditional problems faced by environmental NGOs in relying on campaigning tools over the long term. Where NGOs count their 'successes' in these terms they are likely to be disappointed, but where they take a longer-term view of the impact of their work upon the broader thinking that shapes the behaviour of policy actors and wider civil society, the account looks more robust. Of all public interest groups, environmental organizations have the most favourable discourse of all within which to operate.⁹²

On the other hand, whilst Green MEPs may enjoy advantages over NGOs, their policy influence remains limited by two key factors. First, most of the GGEP's publicity

⁹¹Corcelle, Guy & Johnson, Stanley P., 1997, *"The Environmental Policy of the European Communities"*, London, Kluwer Law International, pp.196-197

⁹²Ibid, p.197

work has been done in isolation, unconnected to the work of NGOs. The GGEP occasionally joined in protest events hosted by other organisations. For instance, the GGEP cooperate with a group of NGOs opposing the weakening of the EU packaging waste directive. But these events represented primarily individual, ad hoc collaboration rather than systematic cooperation. Whilst individual MEPs maintained close links with particular groups, the GGEP as a whole had very little systematic or organised coordination with green NGOs. The limits to NGO-MEP cooperation were echoed by the head of the EEB, who admitted to no special relationship with Green MEPs. A second explanation for the muted impact of Green MEPs is their tenuous roots to their national parties or constituencies. MEPs' projects and work have tended to remain unpublicised and generally unnoticed back home.⁹³

⁹³Bomberg, Elizabeth, 1998, "*Green Parties and Politics in the European Union*", European Public Policy Series, Routledge, London/New York, p.137

4.3.2 EUROPEAN COMMISSION AND LOBBYING

In the EU, perhaps more than other systems of government, the most effective lobbying is done early, while drafts are being written and evidence gathered. Interest groups and parties can gain access to officials drafting legislation while they are drafting it. In the latter stages of EU policy-making, which occur behind closed doors in Council meetings, the chance to influence decisions is remote. While a proposal for legislation is being drafted within the Commission's Directorates-General, interested parties can lobby the Commission directly by sending memoranda and nurturing informal contacts.

Because the Commission has the sole right to initiate legislation, securing access to the Commission is a key step in setting the EU agenda. Despite common assumptions to the contrary, the Commission is generally receptive to interest group lobbying and advice. NGOs enjoy access to the Commission through their participation in consultative forums and advisory groups. As representative of the 'European interest', the Commission welcomes overtures from any interest group that might identify areas of policy that merit European attention.⁹⁴

The NGOs receive a high level of support from the European Commission for a number of reasons. Primarily this support stems from a recognition that the NGOs represent a large number of the citizens of the EU. The NGOs facilitate the participation of the general public in the monitoring and implementation of policy because they provide information. As information gatherers, the NGOs assist the European Commission where it has limited resources to deal with particular problems and they are a cost-effective way for the European Commission to obtain access to scientific expertise.⁹⁵

⁹⁴Bomberg, Elizabeth, 1998, "*Green Parties and Politics in the European Union*", European Public Policy Series, Routledge, London/New York, p.129

⁹⁵Barnes Pamela M. & Barnes Ian G., 1999, "*Environmental Policy in the European Union*", Edward Elgar Publishing, p.115

Greenpeace International, the World Wide Fund for Nature (WWF) and the European Coordination of Friends of the Earth are all active lobbyists of the Commission and have operated Brussels offices since the late 1980s. In addition to specific NGOs working on their own, one of the most visible and active green lobbyists is the European Environmental Bureau (EEB), an umbrella environmental organisation whose creation was supported by the Commission. Because of its expertise in environmental affairs, the EEB is often given access to relevant Commission bodies. It exerts constant and continual pressure on the Commission, lobbying on issues that eventually make their way into legislation. These issues have included the introduction of environmental assessment reports, directives on the protection of songbirds, and the integration of environmental considerations into other areas of EU policy.

Commission as an organisation and the key to its effectiveness is its ability to develop networks of cooperation and collaboration across organisation and national boundaries which engages a wide communication of national ministers, civil servants and interest group representatives in the EU decision-making process. This networking, in turn, makes the Commission appear more democratic and accessible.

Finally, the Commission needs the information provided by lobbyists. Despite its technocratic reputation, the Commission bureaucracy is comparatively small and often lacks detailed technical knowledge, especially across 25 nations. It is a truism of EU analysis that the institutions particularly the Commission can suffer from an expertise gap which outside organizations including NGOs can fill.⁹⁶ Interest groups often have access to specialised information that the Commission requires if it is to exercise its own responsibilities efficiently.⁹⁷

⁹⁶Warleigh, Alex, 2000, "*The Hustle, Citizenship Practice, NGOs and Policy Coalitions in the European Union-the Cases of Auto-oil, Drinking Water and Unit Pricing*", *Journal of European Public Policy* 7, p.230

⁹⁷Bomberg, Elizabeth, 1998, "*Green Parties and Politics in the European Union*", *European Public Policy Series*, Routledge, London/New York, pp.129-130

4.3.3 COUNCIL AND LOBBYING

A particular problem for NGOs is access to the Council secretariat; although the latter is not always easy to penetrate, it is clear from the current research that both national delegations and the secretariat itself are under-lobbied, as NGOs fail to perceive that Council officials may be both in need of information and able to affect policy outcomes especially when a small country has the Council Presidency or when the Presidency is dealing with a controversial matter requiring hard negotiation.⁹⁸

⁹⁸Warleigh, Alex, 2000, “*The Hustle, Citizenship Practice, NGOs and Policy Coalitions in the European Union—the Cases of Auto-oil, Drinking Water and Unit Pricing*”, *Journal of European Public Policy* 7, pp.233-234

4.3.4 EUROPEAN COURT OF JUSTICE AND LOBBYING

If EU rules are working unfairly, the ECJ is open to non-governmental organisations (NGOs), local authorities, companies or individuals to complain and seek redress. The Court has the power to impose fines on companies and governments found guilty of a breach of specific Community laws. The Court can also levy moral pressure on a government if it is found guilty of violating Community law. These moral sanctions have been effective as governments have sought to avoid public embarrassment.⁹⁹

The Court, however, has refused to allow environmental groups the legal 'standing' which would allow them to challenge decisions made by the European Commission. This position was reaffirmed in April 1998 in the case of *Greenpeace International and others vs European Commission*. However, third parties can gain access to the Court only if the Commission's decision is 'of direct and individual concern to them'. The result of the Court's decision in the *Greenpeace International* case is that 'any further progress on standing is now likely to require amendment of the Treaty', the lack of such access by European environmental NGOs to the ECJ limits the pressure felt by the Commission to concern itself with how directives are actually being executed.¹⁰⁰

⁹⁹Bomberg, Elizabeth, 1998, "*Green Parties and Politics in the European Union*", European Public Policy Series, Routledge, London/New York, p.190

¹⁰⁰Wallace, Helen & Wallace, William, 2000, "*Policy-making in the European Union*", Oxford University Press, p.303

4.3.5 THE EUROPEAN ENVIRONMENTAL AGENCY

In addition to national and EU officials, the formulation of environmental policy usually brings together scientific experts, business interest groups and environmental non-governmental organisations (NGOs). EEA, which came into operation in 1993, can provide the Commission, with comparable information at the European level on the state of the environment. But the EEA'S limited sources, as well as its independence from the Commission, stresses the Commission's need for additional outside experts. In the formulation of climate change policy, for instance, the Council set up working groups to prepare dossiers and ministers well informed, but these groups were soon dominated by scientific experts.¹⁰¹

EEA was established to provide 'objective, reliable and comparable information' about the quality of the environment, rather than to enforce environmental regulations. It is essentially an information-gathering institution, rather than one concerned with enforcement or with proposing new environmental legislation. In practice, it acts to link together national ministries into a network which feeds information into the Agency. While it is largely independent of the Commission, it is closely linked to national environmental bureaucracies. Critics argue that their key role potentially inhibits free access and exchange between the Agency and independent bodies at sub-national or international levels which may be in conflict with member state governments and fear that NGOs and local governments can easily become marginalized given the centrality of national ministerial officials.¹⁰²

¹⁰¹Peterson, John & Bomberg, Elizabeth, 1999, "*Decision-Making in the European Union*", The European Union Series, St.Martin's Press New York, p.193

¹⁰²Wallace, Helen & Wallace, William, 2000, "*Policy-making in the European Union*", Oxford University Press, p.303

Still, the preamble to the Common Position approving the 5th financial action programme for green NGOs indicates that G9 members have made themselves indispensable to EU policy making. It records that:

NGOs active in the field of environmental protection have already demonstrated that they can contribute to the environmental policy of the Community ... by active involvement in concrete environmental protection measures and in activities to increase the general awareness of the need for the protection of the environment with a view to sustainable development ... NGOs are essential to coordinate and channel to the Commission information and views on the new and emerging perspectives, such as on nature protection and transboundary environmental problems ... NGOs have good understanding of public concerns on the environment and can thus promote these views and channel them back to the Commission ... they provide necessary balance ... in relation to the interests of other actors in the environment, including industry/business, trade union and consumer groups .¹⁰³

¹⁰³Corcelle, Guy; Johnson, Stanley P., 1997, *"The Environmental Policy of the European Communities"*, London, Kluwer Law International, p.191

4.4 ENVIRONMENTAL NGO EFFECTED DIRECTIVES

- **Packaging Waste:**

The 1994 directive on packaging and packaging waste introduced a harmonised waste management policy designed to reduce the impact of packaging waste on the environment. Following over a year of consultation, negotiation and several drafts, the Commission published a formal proposal in late 1992. Although the Commission's amended proposal, presented in late 1993, adopted several of the EP's amendments, many of its tougher amendments were rejected by the Commission as inappropriate or incompatible with the aims of single market. At the end of 1993, the Environmental Council adopted the Packaging Waste Directive which was considerably weaker in content and tone than were earlier drafts.¹⁰⁴

Although the Council's decision received a cautious welcome from packaging organisations, it was harshly criticised as regressive by several NGOs and three member states (Germany, Belgium and the Netherlands). Under the co-decision procedure, the Council's decision was subject to a second reading by the EP. However the coalition within EP failed to secure the parliamentary majority needed to pass the more stringent amendments. In the end the directive was adopted with virtually the same targets and stipulations.

The policy network shaping the legislation featured a varied and fluid membership. Lobbyists representing over 50 euro-level interest groups were active at different times during the development of the directive. Several dozen environmental NGOs lobbied separately or under the auspices of SPAN (Sustainable Packaging Action Network). SPAN, Friends of the Earth and the European Environmental Bureau formed the core of a green advocacy coalition which was especially active early in the process. The exchange between these lobbyists and the Commission was loose, informal and open.¹⁰⁵

¹⁰⁴Peterson, John & Bomberg, Elizabeth, 1999, "*Decision-Making in the European Union*", The European Union Series, St. Martin's Press New York, p.196

¹⁰⁵Ibid, p.197

Packaging waste, like most environmental policies, was subject to bargaining between a vast and varied array of actors over both definition of the problem and the desired solution. This case illustrates that, despite the fundamental unpredictability of the EU's environmental policy agenda, issue networks are not merely pluralist politics by another name. The issue network may have been loose but it was still captured by those opposing stringent measures regulating packaging waste.

Compared to other sectors, environmental policy networks are relatively accessible, but openness should not be confused with equal influence. Environment policy does not represent a pluralist paradise. The uneven resource base of different actors within networks is illustrated by the development of the 1994 packaging waste directive, in which the initial influence of environmental advocates was soon overshadowed by the superior resources and access of industry representatives.

Whatever their composition, the ability of policy networks to shape environmental policy is uneven. The case of packaging waste shows how the policy-shaping process can be captured by networks dominated by a coalition opposing tougher environmental measures. Moreover, it is possible for policy networks to move one step beyond shaping EU policies and even influence history-making decisions. Although rare, this can occur when networks are led by agents who seek a rewriting of the rules, or a new "grand bargain" in their sector. Generally, however, most EU environmental policy networks remain loose and ad hoc, and their policy impact is seldom decisive.¹⁰⁶

• **Carbon Tax**

In the carbon tax case we see a struggle over interests centering not only on the Council but also on the Commission. Despite the organizational responsibility to reflect only supranational goals, Commission actors often do reflect their national bases. More broadly, the cases suggest that sectoral interests cut across national interests and are reflected in the Commission, the Parliament, and the Council.

¹⁰⁶Peterson, John & Bomberg, Elizabeth, 1999, *Decision-Making in the European Union*, The European Union Series, St. Martin's Press New York, p.195

Equally important, the carbon tax proposal and the struggle over the legal basis of the waste directives highlight the ongoing and very important struggle by EU actors over organizational power and interests. Each institution and its divisions are trying to maximize their own decisional latitude, to fulfill and expand their institutional goals. DG XI saw the carbon tax proposal as a means for giving environmental policy actors, a powerful fiscal tool as well as enhancing sectoral environmental goals. Finance actors and ministries viewed the situation as a critical time to deflect ill-considered European fiscal proposals, which would affect the fiscal grounding of the member states.

Clearly an entrepreneurial effort is benefited when no major societal-groups perceive a specific economic threat attached to the proposal the coalition is supporting. The bargaining mode is more likely to prevail if influential interests perceive a specific cost and therefore seek to exercise their leverage over EU political institutions. A parallel condition seems to apply to NGOs. Entrepreneurial environmental proposals are likely to receive less backing when environmental NGOs cannot isolate and focus on the general policy implications. NGOs tend to offer less support when the issue is removed from specific recent environmental accidents and problems. Thus, economic industries did not immediately mobilize to fight the initial carbon tax proposal while the environmental NGOs were equally equivocal about an economic instrument.¹⁰⁷

An important condition is the organizational and tactical qualities of the groups involved. In the carbon tax case, industrial sectors ran into the problem that their federations were too spread to create an explicit, specific critique of the Commission proposal. Groups also lost out when they did not have an able lobbying section in Brussels that knew the EU system.

¹⁰⁷Zito, Anthony R., 2000, *"Creating Environmental Policy in the European Union"*, Palgrave, New York, p.179

On the other hand; the case study dossiers provided numerous examples of NGO ability to shape legislation; for instance, on the drinking water directive Greenpeace organized a massive letter-writing campaign which helped to persuade the EP to push for the preservation of an overall limit for pesticides. The Commission eventually accepted the related amendment despite its own scientific advisers' opinion that such a step was pointless, thereby revising not only its proposal but also its rationale.

On Auto Oil, the European Environmental Bureau (EEB) was able to demonstrate at a press conference that the Portuguese refining industry was making misleading claims about its inability to produce cleaner fuel, which led to the Portuguese government withdrawing its demands for a derogation.¹⁰⁸

The continual ecological damage that a country was suffering overall from an emissions source was an important condition for shaping the attitude of domestic coalitions. Countries that were suffering from immediate concerns about the problem were likely to enhance the entrepreneurial coalition's EU influence by participating in the coalition or acting as an ally in the process. Therefore the efforts of the EP, Greenpeace, and Denmark were substantially helped when public opinion in France became aroused against hazardous waste imports. Where the damage is less apparent, economic interests have more opportunity to question the regulatory costs.¹⁰⁹

Having a range of actors means that the coalition could influence more EU institutional access points. Thus, Greenpeace could provide its media skills and regional resources while MEPs could use their more formal EU resources directly within the process. Successful entrepreneurial coalitions require a group of differentiated actors who sense opportunities and skillfully manipulate the process. Thus, in the waste shipment case, Greenpeace showed tremendous media skill as did the MEPs.¹¹⁰

¹⁰⁸Warleigh, Alex, 2000, "*The Hustle, Citizenship Practice, NGOs and Policy Coalitions in the European Union-the Cases of Auto-oil, Drinking Water and Unit Pricing*", *Journal of European Public Policy* 7, p.232

¹⁰⁹Zito, Anthony R., 2000, "*Creating Environmental Policy in the European Union*", Palgrave, New York, p.179

¹¹⁰Zito, Anthony R., 2000, "*Creating Environmental Policy in the European Union*", Palgrave, New York, p.191

4.5 ENVIRONMENTAL NGO INFLUENCE IN THE EU

A transformation of the international system occurred in the 20th century with the emergence of non-state actors, from the international organizations described in the existing sections to non-governmental organizations, multinational companies, and individual participants. The role of transnational civil society has been particularly important in the evolution of international environmental law. Non-governmental organizations formed to advance the interests of their members have long existed but their numbers have grown considerably along with their ability to participate in international events. An estimated 275,000 NGOs operate in the United Kingdom alone.¹¹¹ On the local and national level, NGOs have been active public lobbyists for decades, and are widely viewed as 'guardians of the environment'. Beginning in the 1980s, several NGOs began focusing on cross-national issues and cross-national campaigns to raise public awareness of European environmental issues.

For instance, NGOs such as the EEB and WWF have used the rotation of the EU Council Presidency as an opportunity to publicise environmental concerns and raise awareness. Typically these groups issue a memorandum to both the outgoing and incoming Presidencies, calling for certain measures to be taken or certain issues to be addressed. These memoranda are invariably issued to the press as part of the NGOs' strategy not only to inform Member State officials of environmental concerns, but to alert the public as well.

WWF has become the lead NGO in matters relating to the structural funds, whilst the EEB concentrates on pollution issues. NGOs, such as Friends of the Earth, have used appeals to the European Court of Justice to publicise infringements of environmental legislation and ensure issues reach or remain on the political agenda.¹¹²

As national NGOs have become more aware of the international and global nature of

¹¹¹Kiss, Alexandre & Shelton, Dinah, "*International Environmental Law*", Transnational Publishers, Inc. Ardsley, New York, 2004, p.163

¹¹²Bomberg, Elizabeth, 1998, "*Green Parties and Politics in the European Union*", European Public Policy Series, Routledge, London/New York, p.134

environmental problems, they have deliberately worked more closely with each other. Cooperation and coalition-building among interest groups are often difficult to track, because they are often informal, ad hoc and unpublicized. A variation on the theme of coalition groups can be found in the international offices of groups operating mainly at the national level. While essentially national NGOs, FoE and Greenpeace have developed multinational coalitions as the opportunities for lobbying international organizations have grown.¹¹³ Whilst the differences between the G9 organizations mean that they cannot always work together; the overall pattern tends to work well for environmental public interests. The G9 embrace ranges from the respectable and 'establishment-friendly' WWF to the more assertive, direct-action-oriented Greenpeace. It encompasses the mass-membership power base of Friends of the Earth and Greenpeace, and the institutionalized EEB. Styles vary, too, such as the interpersonal contact style of Birdlife, and the informal and loosely co-ordinated, but effective, Climate Action Network. There is good proactivity among them. The relationships between the G9 are more harmonious than are many business coalitions, and contain some close alliances.¹¹⁴

With the exception of Greenpeace, all of these organizations have been commissioned by the European institutions for investigative work. They all have the technical and political ability to turn science into politics by influencing the ways in which issues are perceived and defined, and to become part of the 'epistemic communities' which drive policy making. Unlike some other public interest groups whose roles are primarily restricted to ideas dissemination, agenda setting and the politicization of issues, environmental groups have the ability to engage policy making throughout its different stages, through formulation, implementation and monitoring. And, crucially, they have helped shape not only the thinking of other policy actors such as the Commission and producer groups, but also Member State preferences towards environmental protection policies.¹¹⁵

¹¹³Mccormick, John, 1993, *International Non-governmental Organizations: Prospects for a Global Environmental Movement, Environmental Politics in the International Arena*, State University of New York Press, New York, p.138

¹¹⁴Corcelle, Guy & Johnson, Stanley P., 1997, *The Environmental Policy of the European Communities*, London, Kluwer Law International, p.196

¹¹⁵Ibid, p.196

Environmental groups emerged due to frustration with governments' lack of initiative to address the extent of environmental degradation, while the communications revolution has made it possible to connect the global community efficiently and inexpensively. In the past two decades, environmental NGOs have developed scientific expertise and lobbying skills that allow them to effectively participate in negotiations for environmental agreements. Because of their importance, the Brundtland Commission recommended that governments establish official consultation with NGOs to share information, strategies and resources, and, to permit meaningful participation in all aspects of environmental matters.¹¹⁶

A Decision of the EU of March 1, 2002 defines the role of NGOs by laying down a Community action program promoting NGOs that are primarily active in the field of environmental protection. It recognizes that NGOs are essential to coordinate and channel to the EU Commission information and views on the new and emerging perspectives, which cannot be, or are not being, fully dealt with at the state or a subordinate level. In addition, NGOs have good understanding of public concerns on the environment and thus promote these views and can channel them back to the EU Commission.¹¹⁷

Commission funding contributes to some quite remarkable resource levels of public, and public sector, interest groups. These organizations are highly capable of contributing to the technical basis of environmental policy making, and to monitoring its implementation. Non-governmental organizations may draft or develop norms either for their own governance, or for submission to states for adoption. NGOs also perform monitoring, information gathering and other functions related to compliance with binding and non-binding norms. The most notable achievement of these groups are the influences they have contributed to the belief systems and actions of policy makers and of business and consumer interests. Although environmental interests have the most favourable discourse of all public interest groups to operate within, it is worth reflecting that the EU is a world leader

¹¹⁶Kiss, Alexandre & Shelton, Dinah, 2004, "*International Environmental Law*", Transnational Publishers, Inc. Ardsley, New York, p.163

¹¹⁷Ibid, p.164

in environmental affairs. Of course, this cannot be attributed to EU environmental groups, but they are one of a number of contributory factors. Together, the G9 have a unique blend of organizations adept at acting within institutional politics, reinforced by the mass movement base with deep reservoirs of scientific support, commitment and, membership-mobilization.

4.6 HOW TO INFLUENCE DECISION-MAKING PROCESS

It is through the NGOs that the general public as well as the environmental interest groups have the greatest opportunities to influence the whole policy process. The NGOs are non-profit-making organizations. The charitable funding of the NGOs guarantees them an element of independence and autonomy. The environmental NGOs have made much progress in finding ways to participate at all stages of the policy process. Some groups are able to feed in opinions and views at the beginning of the process. Others are involved in the implementation directly, and yet others play an important role in monitoring the actions at the national level. However, the most effective participation of the NGOs in the policy process comes at the beginning, during the policy drafting and discussions. Once the legislative proposal has been passed to the Council of Ministers, it is difficult for the NGOs to make any alterations.¹¹⁸

Greens have considerable potential to act as the mouthpiece of an expanding grassroots movement, and as the agent for promoting new ideas for actual policy. The EU's policy process is striking in its receptiveness to new ideas that may encourage the process of European integration or enhance the Union's image or legitimacy. As there are few entrenched methods of policy-making in environmental policy, the access for outside groups such as environmental NGOs and parties is greater than in more established areas, such as agriculture. Indeed, in a number of cases, NGOs have been able to secure the enactment of environmental regulatory policies stricter than those achieved at the national level. However, compared to larger and better-funded parties and interests, green actors tend to have relatively few resources ,funds, staff, etc. with which to influence policy-making. The Greens thus have to utilise carefully what limited resources they do have.

Working in a particular subject area (such as climate change) tend to a common view of which NGOs are worth listening to and/or seeking out on that subject. Moreover, a multiple-focus NGO's reputation for expertise will change according to the perception abroad of its various policy officers; it is quite possible for an NGO to be considered excellent in some

¹¹⁸Barnes Pamela M. & Barnes Ian G., 1999, "*Environmental Policy in the European Union*", Edward Elgar Publishing, p .115

aspects of its portfolio and unhelpful in others. NGOs were also useful sources of support for EU actors by enlisting national backing for policy proposals through lobbying in the member states. NGOs were considered to be useful sources of advice on policy issues and trusted as interlocutors in strategy discussions by MEPs and officials, making them active partners in policy-making.¹¹⁹

Their influence on agenda-setting and policy-making is exercised primarily through three channels: lobbying the Commission; consciousness raising; and participation in the activities of the EP. However, at a certain stage in the legislative process and in common with all lobbyists, NGOs are obliged to abandon the field. In cases of codecision, the EP may be an ally, but during the conciliation stage it must privilege its relations with the Council and respect the behind-closed-doors nature of the negotiations. In such cases, NGOs must simply trust their institutional allies to deliver.

The role of the NGOs in the policy process becomes important again after the legislation has been handed on to be transposed into national legislation. The NGOs are able to play a very active role in monitoring its implementation and enforcement. The impact of the environmental NGOs may be undermined by the way in which they are structured. Often the reason why many have come into existence is because the members have been involved in campaigns to ensure implementation and enforcement of specific measures in a local or regional context.¹²⁰

The NGOs have their own information-gathering capacities but this requires legal support to ensure that there is freedom of access to the information. Directive 90/313/EEC is intended to ensure that the public is able to play a full and active role in the partnership to protect the environment. The directive establishes the right to have questions answered within specific time scales, and national governments are requested to make periodic reports on the state of the environment. The implementation of this directive has raised a number of important issues for some national governments. The presumption in the directive is that of unrestricted access to information. However, this has raised questions about confidentiality of information

¹¹⁹Warleigh, Alex, 2000, "The Hustle, Citizenship Practice, NGOs and Policy Coalitions in the European Union-the Cases of Auto-oil, Drinking Water and Unit Pricing", *Journal of European Public Policy* 7, p.236

¹²⁰Barnes Pamela M. & Barnes Ian G., 1999, "Environmental Policy in the European Union", Edward Elgar Publishing, p.115

which have been difficult to resolve within some member states. The directive requires the national governments to put in place clear procedures such as public registers of information. In order to fulfil the requirement of publication of periodic reports on the state of the environment, the national governments have also had to introduce appropriate systems of information collection and analysis. This has been a particular difficulty in those cases where monitoring of compliance is carried out by different authorities.¹²¹

To become incorporated into the policy process, interest groups must first establish themselves in the eyes of policy-makers as the legitimate representatives of valid interests and concerns. Groups must represent their constituents effectively to show that they deserve a seat at the policy-making table. Greens thus have the potential to alter the policy process by expanding the range of interests that are consulted as policy is formulated. By raising public awareness, groups such as the Greens may help themselves to become more effective political agents by changing broader social values, and thus expanding the size of their green constituency.¹²²

The key to NGO influence may be the ability to provide credible policy advice, which in turn has three foundations: successful past collaboration, recognized expertise and a large membership. Providing research-based evidence was considered extremely useful by all institutional actors interviewed, and this can allow an NGO to shape the positions of Commission actors when drafting proposals as well as those deciding their fate in the EP and Council. NGOs can bring popular concerns to decision-makers' attention and point out the links between different policy areas.¹²³

¹²¹Barnes Pamela M. & Barnes Ian G., 1999, "*Environmental Policy in the European Union*", Edward Elgar Publishing, p. 117

¹²²Bomberg, Elizabeth, 1998, "*Green Parties and Politics in the European Union*", European Public Policy Series, Routledge, London/New York, p.127

¹²³Warleigh, Alex, 2000 "*The Hustle, Citizenship Practice, NGOs and Policy Coalitions in the European Union-the Cases of Auto-oil, Drinking Water and Unit Pricing*", Journal of European Public Policy 7, p.234

5. CONCLUSION

The Single European Market was the first formal recognition of environmental policy in European policy making, extended by the Treaty of the European Union (Maastricht Treaty) EU to the use of Qualified Majority Voting (QMV) and the addition of the precautionary principle. The single market enabled countries to proceed with higher standards of environmental protection than adopted at the EU level, provided they were compatible with the treaties. The 1987 Single European Act established community legal competence in the environmental area, with decisions taken by QMV. The 1992 Maastricht Treaty extended QMV to all areas of environmental policy. Based on the SEA and on the designation of 1987 as the European Year of the Environment, the EC developed new environmental principles and measures in its fourth EAP (1987). References to environmental policy in successive European Council communiques testified to growing public concern about the issue. At the macro level, the Commission pursued a new approach, making environmental policy an integral part of all other policies-notably economic, industrial, transport, energy, agricultural, and social-whether at the national or European level. A landmark ruling in the Court of Justice in 1988 the Danish bottle case took environmental protection beyond single market issues of a level playing field, enabling measures primarily designed for environmental protection even if they constituted a trade barrier. The commitment to integrate environmental requirements into legislation in Treaty of Amsterdam is one of the major steps forward in the development of the EU environmental policy. An legislation, not just that proposed by DG XI (Environment), has to take environmental impact into account. In addition, there is an explicit statement of the legitimacy of supranational actions to achieve a policy based on the principle of sustainable development. Environmental Fifth Action Programme (1993-2000), which gave a quantum leap to environmental policy with 'towards sustainable development'. The first EAP was modest but 30 years later with sixth EAP environmental policy has become one of the Union's main legislative areas.

If we go through the EU institutions and their role in the process of environmental decision-making the Commission retains important powers to set environmental policy, but the influence of DG XI (Environment) is highly circumscribed. Moreover, the Commission must share its power to set policy not only with the Council but, increasingly, with the EP, whose

influence in environmental policy has expanded steadily. The European Court of Justice historically has supported the intervention of the EU in the field of environmental protection even though it was acting without a treaty base.

Structure of EU decision-making in the environmental arena are still relatively new and fluid.

It depicts the competing interests from 25 Member States with widely varying environmental priorities. Also, the process includes non-state actors such as scientific experts, environmental NGOs and business interest groups which means it's not a simple process member states acting in order to their own national style of regulation and interests. National concerns are replaced onto higher level between the EU institutions.

The expansion in the EU's environmental remit occurred in response to pressures both from above (international negotiations and treaties) and from below (public opinion and member states).¹²⁴ The need for global solutions to global problems expanded the EU's environmental policy beyond European borders. Given that it has a complex policy-making process which, the EU appears to have become a major player in an international environmental context.

EU's most successful policy tool generally has been the directives on which the EU environmental policy relies. But the major problem is that the directives leave national authorities to choose forms and methods of application and the administrative styles influence the chance of successful implementation. In practice the quality of implementation varies a great deal between countries and from case to case. Thus real gaps exist in the implementation of environmental directives according to the disagreements between EU and member states over inequalities in levels of environmental priorities, differences in institutional structure, different styles of policy implementation and the lack of effective enforcement procedures.

¹²⁴Peterson, John & Bomberg, Elizabeth, 1999, "*Decision-Making in the European Union*", The European Union Series, St.Martin's Press New York, p.173

On the other hand the typical bargaining among governments concerned with how environmental protection affects the economic competitiveness of their firms and their public finances. Therefore environmental policy intersects with issues connected to national sovereignty political coalitions shift.

In sum, from an essentially economic community with no firm legal basis for dealing with such issues, the EU has taken on an increasingly central role in policy sectors related to the environment and quality of life. Over the past 20 years, the EU has built up a substantial body of environmental law and has even embraced some green ideals such as the notion of sustainable development. Behind more than 200 environmental directives that tackle particular policy issues lies a strategic policy framework, provided by EAPs and Treaty articles.¹²⁵

Compared to other sectors, environmental policy networks are relatively accessible. As there are few entrenched methods of policy-making in environmental policy, the access for outside groups such as environmental NGOs and parties is greater than in more established areas, such as agriculture. Indeed, in a number of cases, NGOs have been able to secure the enactment of environmental regulatory policies stricter than those achieved at the national level. When approaching the EU institutions, G9 NGOs encourage the full implementation of EU law and policies and lobby for new environmental drafts. The well resourced public interest groups in the field are highly capable of engaging policy making at a scientific level, and their dedication to the cause can give them an advantage over business associations struggling with a variety of issues in EU policy making. Many NGO's act within international institutions, seeking to influence international decision-making, as well as within states, where they promote positive environmental policies. They work actively for raising the public awareness and for disconnecting the economic growth from environmental degradation while developing scientific expertise and lobbying skills that allow them to effectively participate in negotiations for environmental agreements.

¹²⁵Barnes Pamela M. & Barnes Ian G., 1999 "*Environmental Policy in the European Union*", Edward Elgar Publishing , p .97

NGOs also perform monitoring, information gathering and other functions related to compliance with binding and non-binding norms. The most notable achievement of these groups are the influences they have contributed to the belief systems and actions of policy makers and of business and consumer interests. NGOs were also useful sources of support for EU actors by enlisting national backing for policy proposals through lobbying in the member states.

NGOs are essential to coordinate and channel to the EU Commission information and views on the new and emerging perspectives in gratitude towards good understanding of public concerns on the environment and thus promote these views and can channel them back to the EU Commission.

Many NGOs obtain formal status in international institutions. All of them increasingly take part in making and applying national and international norms. Unofficially, most of them serve as “watchdogs” in the process of adoption and implementation of international environmental law. On the local and national level, Environmental NGOs have been active public lobbyists for decades, and are widely viewed as 'guardians of the environment'. It is through the NGOs that the general public as well as the environmental interest groups have the greatest opportunities to influence the whole policy process.

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