



## **EU Environmental Governance: A Benchmark of Policy Instruments**

**With a focus on Agriculture, Energy and Transport**

A Study commissioned by the  
Belgian Federal Department of the Environment  
Ministry for Public Health, Food Chain Security & Environment

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R. Andreas Kraemer (Ecologic)  
Anneke Klasing (Ecologic)

David G. Wilkinson (IEEP)  
Ingmar von Homeyer (Ecologic)

Belgian Federal Department of the Environment, Bd Pacheco 19/5, B-1010 Brussels,  
[www.environment.fgov.be](http://www.environment.fgov.be) Tel. +32(0)2 210 4543 [alexandre.delichtervelde@health.fgov.be](mailto:alexandre.delichtervelde@health.fgov.be)

Ecologic, Pfalzburger Strasse 43-44, 10717 Berlin, Germany, [www.ecologic.de](http://www.ecologic.de)  
Tel. +49 30 86880-0; Fax: +49 30 86880-100; [Kraemer@Ecologic.de](mailto:Kraemer@Ecologic.de)

Institute for European Environmental Policy (IEEP), London, [www.ieep.org.uk](http://www.ieep.org.uk)

# Content

	Page
<b>1 Preface .....</b>	<b>1</b>
<b>2 Executive Summary .....</b>	<b>3</b>
<b>2.1 Background, Purpose and Scope of this Study Report .....</b>	<b>3</b>
<b>2.2 Overall Objectives and Policy Approaches.....</b>	<b>4</b>
<b>2.3 Institutional Structures and Procedures .....</b>	<b>5</b>
<b>2.4 Policy Dimensions and Policy Instruments .....</b>	<b>7</b>
<b>2.5 Sector Policies and Environmental Policy Integration.....</b>	<b>8</b>
<b>3 Introduction .....</b>	<b>11</b>
<b>3.1 Background: Conclusions of the Council (Environment) of December 2001 .....</b>	<b>11</b>
<b>3.2 Purpose and Scope of the Belgian Presidency (in office from July to December 2001) Study .....</b>	<b>13</b>
<b>4 Baseline: EU Environmental Policy and Governance in 2001 .....</b>	<b>14</b>
<b>4.1 Traditional Environmental Policy .....</b>	<b>15</b>
<b>4.2 Sixth Environment Action Programme.....</b>	<b>18</b>
<b>4.3 Cardiff Process .....</b>	<b>19</b>
4.3.1 Common Agricultural Policy .....	19
4.3.2 Energy Policy and Climate .....	21
4.3.3 Transport and Mobility .....	23
4.3.4 Internal Market.....	26
4.3.5 Cohesion Policy .....	28
<b>4.4 Sustainable Development Strategy .....</b>	<b>30</b>
<b>4.5 Reform of the Council of Ministers.....</b>	<b>34</b>
4.5.1 The European Council .....	34
4.5.2 Co-ordinating the work of sectoral Councils .....	35
4.5.3 The EU Presidency .....	36
<b>5 Benchmarking .....</b>	<b>37</b>
<b>5.1 Processes with impact on EU Environmental Policy .....</b>	<b>37</b>

5.1.1	The Lisbon Process .....	37
5.1.2	The White Paper on Governance: A Europe Close to its Citizens .....	39
5.1.3	The Convention on the Future of Europe .....	39
5.1.4	Enhanced Co-operation .....	40
<b>5.2</b>	<b>Structures for EU Environmental Policy .....</b>	<b>41</b>
<b>5.3</b>	<b>Policy Coherence and Consistency.....</b>	<b>42</b>
<b>5.4</b>	<b>Effectiveness of Environmental Policy and its Implementation.....</b>	<b>43</b>
<b>5.5</b>	<b>Environmental Policy Integration (EPI) in the Sectors.....</b>	<b>45</b>
5.5.1	Energy Policy.....	45
5.5.2	Common Agricultural Policy.....	45
5.5.3	Common Transport Policy .....	45
5.5.4	Internal Market.....	45
5.5.5	Cohesion Policy.....	46
<b>5.6</b>	<b>External Aspects and Enlargement .....</b>	<b>46</b>
5.6.1	Enlargement .....	46
5.6.2	External Aspects.....	47
<b>6</b>	<b>Basis for Better Environmental Governance.....</b>	<b>48</b>
<b>6.1</b>	<b>Enhancing Environmental Content in Processes with impact on EU Environmental Policy.....</b>	<b>48</b>
6.1.1	Lisbon Process .....	48
6.1.2	The White Paper on Governance: A Europe closer to its citizens .....	48
6.1.3	The Convention on the Future of Europe .....	50
6.1.4	Enhanced Co-operation.....	51
<b>6.2</b>	<b>Strengthening Overall Structures for EU Environmental Policy .....</b>	<b>52</b>
<b>6.3</b>	<b>Ensuring Policy Coherence, and Consistency .....</b>	<b>55</b>
<b>6.4</b>	<b>Increasing the Effectiveness of Environmental Policy and its Implementation ..</b>	<b>58</b>
<b>6.5</b>	<b>Enhancing Environmental Policy Integration (EPI) in the Sectors.....</b>	<b>60</b>
6.5.1	What can be Done in the Sectors? .....	60
6.5.2	What can be Done with Instruments and Cross-Cutting Issues.....	62
6.5.3	What can be Done in the Member States?.....	63
<b>6.6</b>	<b>External Aspects and Enlargement.....</b>	<b>63</b>

6.6.1	Enlargement .....	63
6.6.2	External Aspects.....	64
<b>6.7</b>	<b>Sustainability Impact Assessment .....</b>	<b>64</b>
6.7.1	Incorporation of SIA within an integrated EU impact assessment system .....	65
6.7.2	The principle of introducing SIA at EU level .....	65
6.7.3	SIAs in practice.....	65
<b>7</b>	<b>Conclusions and Recommendations.....</b>	<b>66</b>
<b>7.1</b>	<b>Overall Objectives and Policy Approaches.....</b>	<b>66</b>
<b>7.2</b>	<b>Institutional Structures, and Innovative Procedures.....</b>	<b>67</b>
<b>7.3</b>	<b>Policy Instruments: Diversity and Appropriate Combinations; Policy Dimensions .....</b>	<b>68</b>
<b>7.4</b>	<b>Environmental Policy Integration, the main Sectors &amp; Cross-Cutting Issues.....</b>	<b>70</b>
<b>8</b>	<b>Annexes .....</b>	<b>73</b>
<b>8.1</b>	<b>Environmental Policy Instruments Compendium.....</b>	<b>73</b>
<b>8.2</b>	<b>Glossary .....</b>	<b>75</b>
<b>8.3</b>	<b>Comparative Table : 6th EAP and Integration strategies (Cardiff) .....</b>	<b>78</b>
<b>8.4</b>	<b>Bibliography.....</b>	<b>79</b>
<b>8.5</b>	<b>Abbreviations.....</b>	<b>86</b>

**List of Charts**

Chart 1: Processes influencing traditional environmental policy.....15

Chart 2: The Lisbon process cycle.....31

Chart 3: The Lisbon governance structure and its three dimensions.....31

Chart 4: GAC and HAC within the three pillars .....36

Chart 5: Content of the three dimensions of the Lisbon process.....38

Chart 6: The Environmental dimension within the Lisbon process .....38

Chart 7: Committees providing input into Synthesis Report .....42

Chart 8: The Economic Policy Committee .....54

Chart 9: The Employment Committee.....54

Chart 10: The Social Protection Committee.....55

Chart 11: Annual Cycle for EU environmental and SDS policy .....57

Chart 12: Overview on EC legislation requiring reporting.....59

Chart 13: Environmental Policy-making Check-list (Co-decision procedure).....77

**List of Tables**

Table 1: Mechanisms for Open Method of Co-ordination.....17

Table 2: Instruments for integration in the area of Agriculture.....20

Table 3: Instruments for integration in the area of Energy .....23

Table 4: Instruments for integration in the area of Transport .....26

Table 5: Instruments for integration in the area of Internal Market.....28

Table 6: The EEA’s role in relation to environmental governance.....44

Table 7: Yearly timelines for EU environmental and SDS policy .....57

# 1 Preface

Today the European Union is on the threshold of great change. The biggest **enlargement** in its history will bring in ten or more new Members, increasing the diversity of environmental, social, economic, legal and administrative conditions within the Community. Existing decision-making structures, policies and procedures need to be overhauled to reflect this momentous change, to respond to the call for strengthening democracy and legitimacy and to ensure that the machinery of the Union does not seize up entirely. That is why the **Convention on the Future of Europe** is currently developing proposals for updating the EU's basic treaties and institutions at the next Inter-Governmental Conference in 2004. Last but not least, the signals recently launched by the European Environment Agency and UNEP point to a mitigated state of the environment, despite the acquis of thirty years of policy making, including five completed action programmes.

In addition to the debate over the impact of enlargement, a separate set of reforms is being put in place by the Commission - without the need for Treaty changes - following the publication in 2001 of the **European Governance White Paper**. These are focused on enhancing openness, participation, accountability, effectiveness and coherence in the way that the Union develops and implements its policies. The Council is also moving towards revised methods of working to be adopted in June at the Sevilla European Council and the Parliament should consider similar changes by the end of the year.

All these reforms are bound to have a big impact on the EU's environmental policy - one of the most extensive, well-developed and popular of the Union's policies. But even before the current flurry of activity, the environmental policy community was already engaged in its own, separate debate on environmental governance. The need for all Community policies to integrate the needs of the environment as set out in **Article 6 of the Treaty** has raised complex issues of policy co-ordination and coherence. The **EU's Sustainable Development Strategy**, launched at the Göteborg European Council in June 2001, requires new mechanisms for developing environmental measures and for ensuring the environment is given proper recognition in the balance between economic, social and environmental priorities. Meanwhile, the thematic strategies to be developed in partnership with stakeholders in the framework of the new **Sixth Environment Action Programme** as well as its decision-making approaches, represent a further innovation in the way that environmental policies are developed at EU level.

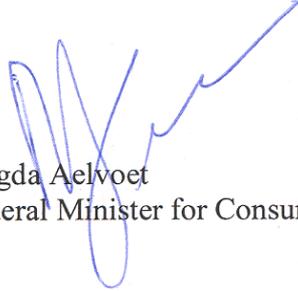
However, there are a number of **specific challenges**. The diversity of stakeholders and the sometimes technical nature of environmental legislation are obstacles to the continuity and coherence of European environmental policy making, which are made difficult to overcome by the current dependence on the will, priority-setting and institutional capacities of each EU presidency. At the same time, environmental protection and sustainable resource management are threatened with dilution by other dimensions of sustainable development and provisions must be made for protecting the natural resources base for social development and economic activities. Finally, environmental policy no longer operates as an

"end-of-pipe" policy, mitigating damage caused by decisions in other policy fields, but has to be embedded always more firmly in the definition and implementation of other policies. This integration will only be possible through new types of horizontal co-ordination. The institutional and procedural framework for this must be adopted without delay, taking into account that environmental governance is characterized by a paradox: on one hand, medium and **long term strategies and programmes** are necessary to encompass the required processes of change; on the other hand, **short term actions** are critical in a series of subjects. The policy instruments should therefore align themselves on this paradox.

There are also significant shortcomings still in the **implementation** of environmental policy measures and the European Commission found it necessary to initiate Treaty infringement procedures before the European Court of Justice in a large number of cases. A better and early integration of the environment in all sectors could contribute to reduce their number.

In response to what amounts to a quiet revolution in policy making, the **2001 Belgian Presidency** commissioned this independent study on EU Environmental Governance from Ecologic and the Institute for European Environmental Policy (IEEP). Fundamentally, the report is oriented towards the future working methods of the European Union and, besides giving a clear and practical overview of the environmental policy landscape, responds to critical needs. Among these are the need for better regulation based on revitalizing the "Community method" used for the traditional policy-making and including the adoption of directives, regulations and decisions; the need to apply a wider range of approaches with new instruments complementing traditional, legislative measures; and the need to develop the "Open Method of Co-ordination" based on wider, voluntary co-operation between Member States, a method characteristic of the Lisbon socio-economic process. Meeting these needs will reinforce environmental policy's effectiveness.

The report is published and circulated with my support with a view to transferring knowledge between EU Presidencies, and in order to stimulate debate in the run-up to and beyond the European Council meeting in Sevilla. The study feeds into the current process of reflection on EU governance in various task forces within the EU institutions, the Member States and Accession Countries, and in the Convention on the Future of Europe.



Magda Aelvoet  
Federal Minister for Consumer interests, Public Health and Environment

## 2 Executive Summary

A specific methodology ("3 Bs") has been adopted in this benchmarking report. A Baseline being defined – EU environmental policy and governance in 2001, the Benchmarking analyses the various processes and structures with impact on environmental policy; then, the Basis for better environmental governance is assessed.

### 2.1 Background, Purpose and Scope of this Study Report

1. During 2001, a number of developments helped move the issue of governance in general and environmental governance in particular up the agenda of European policy debate. Chief among them were, and still are the:
  - Convention on the Future of Europe preparing Treaty changes for adopting in the Inter-Governmental Conference in 2004,
  - Lisbon Process and the resulting pressure to align economic and social policies among the Member States through the (new) Open Method of Co-ordination,
  - progressive debate about reforming the structure and procedures of the Council of Ministers and the European Council to prepare for enlargement,
  - preparation and publication of the European Commission's "European Governance: A White Paper",
  - drafting of the EU Sustainable Development Strategy and the 6<sup>th</sup> Environmental Action Programme,
  - continued interest in the Cardiff Process for environmental policy integration and giving effect to Article 6 of the EC Treaty demanding such integration,
  - the Conclusions of the Council (Environment) of 12 December 2001 on Sustainable Development Strategy follow-up, establishing regular and dependable follow-up to policy decisions.
2. In this context, under Belgian EU Presidency in 2001, the Belgian Federal Department of the Environment commissioned the study "EU Environmental Governance: A Benchmark of Policy Instruments", guided by a steering committee<sup>1</sup> and undertaken jointly by Ecologic and IEEP London. Preliminary results and remaining issues were presented in a "Key Points for Discussion" paper to stimulate debate at a Workshop on EU Environmental Governance in Brussels on 5 March 2002. This was held with the

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<sup>1</sup> Members of the Steering Committee: Belgian Federal Department of the Environment: Marc De Win (Chairman); Alexandre de Lichtervelde (Project manager), Expert, Environmental Integration & Sustainable Development Strategy; previously SDS pilot during Belgian EU Presidency; Philippe Bourdeau, professor at IGEAT (ULB) and past-Chairman of EEA Scientific Committee; Belgian Permanent Representation to the EU: Frédéric Chemay, EU Environment Council chair during Presidency and Belgian seat as from Jan 02; Belgian Federal Department of the Environment: Joëlle Smeets (Communication Manager); Ministry for Consumer Protection, Public Health and Environment: Ulrik Lenaerts (Cabinet's Environment Counsellor); Brussels Institute for Environmental Management (IBGE), Data Observatory: Marie-Christine Berrewaerts; Belgian Federal Department of the Environment: Maud Istasse (Legal counsel); Flemish Region: Remy Merckx, Head of Europe & Environment Division.

participation of the Spanish Presidency of the European Union 2002. The Federal Ministry of Agriculture, Forestry, Environment and Water Management of Austria provided their support by hosting the event in their Permanent Representation to the European Union.

3. The baseline of this report consists of the following documents:<sup>2</sup>
  - EU Sustainable Development Strategy
  - Sixth Environment Action Programme
  - Cardiff process and its sectoral integration strategies
  - December 2001 and March 2002 Environmental Council Conclusions
4. The focus of this study is on the European Union, as EU environmental policy is still in search of its marks. Issues of global governance are not addressed within the scope of this study.
5. This report highlights a range of issues that are part of EU Environmental Governance and documents the key findings of the study in relation to:
  - Overall objectives and policy approaches
  - Institutional structures and procedures
  - Policy dimensions and policy instruments
  - Sector policies and environmental policy integration
  - Horizontal & institutional issues in environmental policy integration

This summary does not include all key findings and recommendations of the study (ca. 70 pages with 20 charts and tables & 5 annexes). The summary will be available in French and Dutch in the coming weeks.
6. The study report is published ahead of the June European Council meeting in Sevilla, which is expected to take important decisions on Council reform and environmental governance. Being an outcome of the Belgian Presidency 2001, the report provides a reference for a continued discussion and a possible further elaboration during the Spanish and Danish Presidencies 2002 and beyond.

## 2.2 Overall Objectives and Policy Approaches

The European Union now needs a completed strategic goal for the Lisbon Process including the environment. This is still lacking, although the Lisbon Process has been complemented with an environmental element by the Göteborg European Council meeting. The European Council should call for the **European Union to "become a highly eco-efficient economy and use energy and natural resources in a way that respects the carrying capacity of the environment [...]"**.<sup>3</sup>

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<sup>2</sup> Only documents released before the 1<sup>st</sup> of June 2002 were considered.

<sup>3</sup> Conclusions of the Council (Environment) of 4 March 2002, No. 12. The current wording in No. 5 of the Conclusions of the Lisbon European Council reads: "to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion".

7. The European Council should also give the **same weight to the environmental dimension** of the Lisbon Process as to the economic and social dimensions. This should be reflected in substantial improvements to the **environmental component in the Commission synthesis report** and the number and weighting of environment-related **indicators in the structural indicators list** (with priority for indicators on biological diversity, water and chemicals) as well as in the **establishment of committees** (see below, 2.3).
8. The **Charter of Fundamental Rights**, which is not a binding legal document, contains an environmental article which is **not satisfactory**. It does not give citizens a right to the protection of their natural environment, and it only binds the institutions. The Convention on the Future of Europe should, in consequence, consider making the **Charter part of EU primary law**, and **introducing the right to a high level of environmental protection and the improvement of the quality of the environment**.
9. The European Commission and Council should establish clear and transparent **rules for consultations** of stakeholders at all levels, covering the legislative process as well as implementation and evaluation. **Consultations must be transparent and well organised**. The names of the participants and the outcomes of consultations could be made available to the interested public. It would be helpful to include **environmental NGOs** in all consultations on environmentally relevant sectoral policies.

### 2.3 Institutional Structures and Procedures

10. The Convention on the Future of Europe should consider ways to **revitalise the Community Method (CM)**, reduce the implementation deficit, and obtain synergies by applying the CM and the Open Method of Co-ordination (OMC) in combination. This matter is particularly urgent in the field of environment, where the CM has resulted in notable successes but where a structure for OMC is now needed for institutional coherence with the other dimensions of sustainable development. The Convention should also consider **Treaty changes** establishing OMC structures in environmental policy.
11. The European Council meeting in Sevilla in June 2002 should consider the creation of one or more **permanent advisory committees**, such as:
  - **Article 6 Committee** for environmental policy integration,
  - **Environmental Policy Committee**, like the Economic Committee, the Employment Policy Committee or the Social Protection Committee, plus a
  - **Sustainable Development Policy Committee**.

Various options are now under consideration in COREPER and the discussions should be brought to a speedy conclusion, with the **Sevilla European Council establishing at least one committee**. Failing that, the Environment Council working party should be reinforced as an intermediate measure, e.g. by a sub-committee. One advantage of such committees, used in **Open Method of Co-ordination**, are the **two-year rotating chairmanships** which provide continuity, an effect urgently needed in the development and implementation of environmental or sustainable development strategies.

12. Key parts of the Open Method of Co-ordination are **formalised annual environmental performance reporting** to the European Commission or, through an Environmental Policy Committee, to the Council (Environment), and the adoption by Council of **reports and guidance to the European Council**.
13. The European Commission, in its **Action Plan for Better Regulation**, and the Council should consider which aspects of the Open Method of Co-ordination could be applied to environmental policy. Options would be: **Guidelines to Member States, peer reviews, institutional indicators**, involvement of national administrations in policy formulation at European level (**vertical coherence**), etc. In the long term, the Convention on the Future of Europe should consider the challenge of **matching or better co-ordinating the competencies** of Council configurations, Commission services, Parliament and the ministerial structures in the Member States. Some clarification might also come from the forthcoming inter-institutional agreement.
14. Simplification of the **agendas of the European Council** meetings should not be allowed to reduce the political authority attached to the EU Sustainable Development Strategy and the Cardiff Process for Environmental Policy Integration.
15. The **General Affairs Council** (GAC): some Member States want to split it into two parts, one of which should focus on cross-cutting and institutional issues. This “Horizontal Affairs Council” (HAC) should have the authority to undertake, at Council level, detailed reviews, co-ordinate, and draft guidance on sectoral environmental integration strategies and priorities for sustainable development. The HAC should also extend the SDS **Road map** of the General Affairs Council to the two other dimensions of SD.
16. As a first priority, the **Environment configuration** of the Council should continue to be an identifiable formation of the Council. In the event it is paired with other Council configurations, it should be ensured that the Environment Council keeps its own identity. The Council (Environment) should study the options for, and then establish **monitoring and assessment routines** to observe results stemming from the Conclusions of the Council (Environment)<sup>4</sup> and review mechanisms to assess the follow-up to policy initiatives, in particular the implementation of the Cardiff EPI Strategies.<sup>5</sup>
17. The European Commission and the Council should acknowledge and **strengthen the role of the European Environment Agency** (EEA) in evaluating the effectiveness of environmental policies, approaches and instruments at European and Member State levels. The EEA should act as the **focal point** for shared policy learning to improve the environmental performance in the Member States and at Community level, and in other EEA member countries. In this context, national and European **reporting obligations** relating to environmental policy integration and sustainable development should be **streamlined**. **Penalties for non-compliance** with information disclosure or reporting requirements should be considered.

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<sup>4</sup> Notably of 12 December 2001 and 4 March 2002.

<sup>5</sup> In case the Environment Council is paired with other Council configuration(s) it could be paired with sectors covered by the SDS i.e. health, transport, energy, agriculture.

## 2.4 Policy Dimensions and Policy Instruments

18. The **external dimension** of EU environmental policy and sustainable development has not yet been clarified and, apparently, much initial analysis is still needed before a coherent set of targets can be formulated. On the basis of the Conclusions of the Council (Environment) of 4 March 2002 on the internal dimension of SDS and the Conclusions of the Council of 12 December 2001 on the follow-up to the environment-related aspects of SDS, the European Council should invite the Council to develop the **inter-linkages between the internal, external & global dimensions** of Community policy on sustainable development.
19. **Enlargement** of the European Union is expected to adversely affect the future adoption of environmental legislation, unless directly associated with the internal market or accompanied by financial inducements. **A weaker environmental policy is likely** because of the more cumbersome process of policy definition where a wider range of arguments would need to be considered:
- bio-regional conditions,
  - levels of administrative capacities,
  - traditions of civic involvement in environmental matters,
  - different levels of pollution and
  - economic capacities for dealing with its consequences.
- In addition, implementation deficits are likely to increase. The **Open Method of Co-ordination** and **environmental conditionalities** attached to financial transfers to new Member States may be important parts of strategies for mitigating these problems.
20. In June 2001, the European Council meeting in Göteborg called for 'mechanisms to ensure that all major policy proposals include a **Sustainability Impact Assessment** (SIA) covering their potential economic, social and environmental consequences'. The matter is now considered by the Commission's Secretariat-General as part of an "Action Plan for Better Regulation" prepared for the Sevilla European Council meeting in June 2002. Given the nature of issues under consideration by the **Convention on the Future of Europe**, SIAs should be undertaken of its major proposals with the potential to affect the environment.
21. The 6<sup>th</sup> Environmental Action Programme requires the European Commission to consider, **prior to their adoption**, whether actions in the economic and social fields contribute to and are coherent with European environmental policy. Clear guidance should be developed establishing **good practice and minimum essential characteristics for SIAs and environmental impact assessments**. The introduction of SIAs as part of a wider, integrated impact assessment system should not be allowed to dilute consideration of essential environmental issues. SIA systems need **significant resources** and high-level political support to retain credibility.
22. **The new system of Tripartite Agreements** for environmental protection between Commission, Member States and regional or local authorities, should be tried and implemented with safeguards to avoid the risk of eroding harmonised and high levels of protection.

23. The European Council should invite the Council and the Member States to try the instrument of **Enhanced Co-operation** and evaluate its suitability for extended application.
24. Adopting and enforcing the **right combination or 'mix' of instruments, be they legislative or non-legislative**, is of paramount importance for successful environmental protection and environmental policy integration. The European Commission should explore the scope for synergies among instruments.

## **2.5 Sector Policies and Environmental Policy Integration**

The process of environmental policy integration (EPI) is aimed at ensuring that the needs of the environment are considered, respected, and preferably advanced in the process of choosing policy options and implementation for sectoral policies that have potentially significant impact on the environment. Without **concrete actions** aiming at implementing the existing strategies and addressing environmental issues in sectors not yet covered by integration strategies, there is little chance to overcome the apparent inability or unwillingness of some Council configurations to recognise and sufficiently address the full range of unsustainable consequences of their policies and decisions.

25. Integrating environmental protection requirements into the **Common Agricultural Policy** (CAP) remains limited to implementing Agenda 2000 and no substantial discussion on improving EU governance has taken place in this field. However, during 2001, a new agenda emerged in the EU Sustainable Development Strategy with an emphasis on 'encouraging healthy, high quality products, environmentally sustainable production methods, including organic production, renewable raw materials and the protection of biodiversity'. These environmental issues are now taken up by Member States in preparation of the mid-term review of the CAP beginning in the summer of 2002, with a view of an ambitious reform of the CAP to be adopted in 2006. Much could be gained in the short term by Member States using the opportunities for increasing funding for agri-environment and other second-pillar measures through the use of modulation.
26. The integration of environmental policy requirements into **Energy Policy** in the context of **climate change** started early, led to the development and progressive adoption of a range of measures and instruments, and is now ahead of other sectors. Shortcomings persist, however, in view of meeting the targets established by the Kyoto Protocol, the main driver of climate change policy. The focus of European energy policy now needs to shift towards sustainable energy use and apply the full range of instruments (including taxation, targeted subsidies, emissions trading, voluntary agreements) and the role of the Council in its Energy configuration, which only meets every six months, should be strengthened.
27. Taking account of environmental concerns relating to **Transport and Mobility** also started early and the sector is now remarkable for its integration of transport and environment experts and officials working on indicators and policy formulation. This moved transport policy beyond traditional "end-of-pipe" solutions to recognise the need to decouple transport growth from economic growth. However, problems of CO<sub>2</sub>-emissions and congestion, and growth in air traffic persist. Solutions are likely to be achieved through demand management and applying the full range of policy instruments, according to the proposals of the Horizon 2010 White paper. Progress in the sector will also

depend on the co-ordination of different scales of land use or spatial planning with the transport infrastructure development.

28. Understanding of the environmental impacts of the **Internal Market** and trade liberalisation is still limited, the formulation of effective policy responses in the sector is lacking and no quantified targets, timetables or indicators have been developed. There is a need now to clarify the circumstances in Article 95 of the EC Treaty. An amendment should allow a Member State to adopt measures for environmental protection in the presence of a Community harmonising measure, and empower Member States, regional and local authorities to take any action that is needed to protect the environment or natural resources. The purpose of the internal market would be served well by phasing out environmentally-harmful state aid in the Member States, and by using taxes and charges for internalising environmental and resource costs at all levels of governance. The process of adoption of a Community Integrated Product Policy (IPP) should be accelerated to promote changes in production and consumption patterns, supported by eco-labelling, use of standardisation, and the new rules for green procurement.
29. **Cohesion Policy** is a decentralised Community policy with only limited guidance from the General Affairs Council. Provisions for integrating environmental concerns exist with respect to the Structural Funds but are lacking in relation to the Cohesion Funds. Even with the environmental provisions, the Structural Funds demonstrate the conflict between two sets of governance principles, decentralisation and participation, versus better co-ordination and coherence. Extending the Cohesion Policy to new Member States after enlargement in the next programming period after 2007 should be preceded by a reform of objectives and procedures. Also, the Council – meeting in its General Affairs configuration or a future Horizontal Affairs Council (HAC) – should regularly review the use of Structural and Cohesion funds and issue guidance on good practice.
30. The development of **effective environmental policy integration (EPI)** strategies is still deficient at Community level:
- **Appreciation of the environmental impacts** of sectoral policies is only relatively advanced in agriculture, energy and transport.
  - Having no systematic analysis of environmental impacts leads to **inadequate formulation of EPI objectives** and (more concrete) targets. A consistent approach has been developed chiefly in transport policy, with a strong role for the European Environment Agency.
  - The **consistency of planned measures with EPI objectives** is reasonable only in relation to energy and transport policies, and to a much lesser extent in agriculture.
  - **Indicators** and time frames, and regular **monitoring and review** mechanisms, are essential for strategy implementation and follow-up. Again, only the Transport Council has adopted suitable indicators with clear links and relevance to policy objectives, but still without enforceable deadlines.
  - Consideration for **nature conservation** and **bio-diversity** is inadequate in all sectors, and the European Council meeting in Barcelona has highlighted the renewed importance of both issues. This was backed by the Commission Communication on the European Union Sustainable Development Strategy, which calls for establishing a system of indicators by 2003. The European Council should now specifically ask all

relevant Councils configurations to consider nature conservation and bio-diversity in **updating and revising their Cardiff EPI Strategies.**

31. Consequently, the European Council should highlight the importance of sustained action for the **full implementation of Article 6 of the EC Treaty**, which stipulates that 'environmental protection requirements must be integrated into the definition and implementation of all Community policies and activities'. The European Council should provide **guidance on the structure and content of Cardiff EPI Strategies** and establish **minimum requirements for implementation and follow-up.**
32. An initiative should also be taken to promote EPI and the implementation of the Cardiff EPI Strategies in the **Member States**, leading to the development of **national processes for environmental integration** building on:
  - Harmonised reporting and other instruments for information exchange,
  - Comparative assessments (peer reviews), and on that basis on
  - Trans-national policy learning and the development of networks of experts.

The aim should be to create a continuous and stable process – incorporating relevant elements of the **Open Method of Co-ordination** – and thereby stabilise EPI policies in the Member States and other countries.

### 3 Introduction

Far-reaching decisions on the future of the European Union (EU) have to be made. Established decision-making methods are being challenged and existing institutions are reaching their limits. Enlargement of the European Union, development towards a knowledge-based information society, the growing recognition of the democratic deficit in the European system of government and economic globalisation are forcing and shaping the debate about the future of Europe. Thus, the Member States have established the 'Convention on the Future of Europe' to prepare proposals for reforming the future institutional and legal structure of the EU.

Another initiative dealing with the issues mentioned above is the White Paper on European Governance,<sup>6</sup> which was adopted on 25 June 2001 by the EU. The White Paper is devoted to actual proposed changes to the way EU institutions function, considering both short-term alterations that the Commission can make immediately, and long-term reforms to the EU Treaties. The reform proposals address the following items: better involvement of citizens, improved policies, regulation and delivery, global governance and refocused institutions. However, the White Paper does not address EU environmental policy in a section of its own, although it *inter alia* foresees the use of tripartite agreements in the field of the environment. Nevertheless, the White Paper will definitely have considerable implications for European environmental policy making.

The example of the White Paper highlights the general lack of consideration given to environmental and natural resources issues in discussions about the future functioning of the EU. This in spite of the fact that environmental degradation and resource depletion threaten economic, social development and security and that instruments developed in the environmental field have often proved useful in other areas. In this context, the question of how EU environmental policy will face the challenges to be addressed by the Convention on the Future of Europe must be raised. This study on 'EU Environmental Governance: A Benchmark of Policy Instruments', commissioned by the Belgian Presidency in December 2001, addresses this shortcoming.

#### 3.1 Background: Conclusions of the Council (Environment) of December 2001

The multitude of issues in, and interfaces of, environmental policy presents a particular challenge for management of policy, choice and application of instruments, as well as follow-up through monitoring, assessment and evaluation. This complexity is increased by the manifold scientific foundations of environmental protection and the technical expertise required for the choice of instruments. This tends to make environmental policy inaccessible, and therefore, it is sometimes ignored by higher levels of government. The Conclusions of the Council (Environment) of 12 December 2001 can be seen as a response for the need to have regular and reliable follow-up to policy decisions, as well as timely and focused information and guidance for the European Council.

The Environment Council agreed in its Conclusions of 12 December 2001 'to contribute every year, at the meeting of its Environment formation to the follow-up of the environment-

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<sup>6</sup> Commission Communication: European Governance: A White Paper, COM(2001) 428.

related aspects of the Sustainable Development Strategy (SDS) by adopting Conclusions on this topic<sup>7</sup>.

The Council Conclusions specifically call for a number of actions. First, the Council calls for initiating a **cross-cutting examination** (and possible reviews later) of:

- proposals in the 6th Environment Action Programme (6EAP);
- suggested measures and actions foreseen in the sectoral Cardiff Strategies for environmental policy integration;<sup>8</sup> and
- the proposed headline objectives and measures in the Commission Communication 'A Sustainable Europe for a Better World: A European Union Strategy for Sustainable Development'.

This examination should be integrated with the Road Map<sup>9</sup> of the General Affairs Council (GAC) which provides a distribution of work within the Council, a timetable and an identification of priorities. In addition, the comparison in Annex 8.3 summarises the objectives and actions mentioned in the two first documents referred to above. Furthermore, the Environment Council calls for making an initial **exploration** and arrangement for regular **reports of activities**. These should include all possible steps for ensuring the articulation between the internal and the external dimensions of sustainable development, notably:

- making sustainable development an objective in bilateral and EU development and economic co-operation, and
- in all international organisations and specialised agencies; as well as
- ensuring that trade and environment policies are mutually supportive, and
- revitalising global governance through enhancement of international environmental governance.<sup>10</sup>

Most importantly, it calls for establishing effective procedures and routines for the adoption of **annual Council (Environment) conclusions** on the environment-related aspects of the European Union Strategy for Sustainable Development.<sup>11</sup> These should be based upon an annual report reviewing the implementation and effectiveness of priority environmental measures at both the EU and Member State levels. This report should be compiled by the Commission, with the assistance of the European Environment Agency, drawing upon annual reports to the Commission by the Member States. An overview of points requiring regular monitoring are listed in Annex 8.3, which can form the basis for further reflections and eventual decisions. To this end, the Environment Council suggests to reinforce the Council structures and to enhance their role. The Committee of Permanent Representatives (COREPER) should consider how to improve the necessary arrangements since effective co-ordination between the sectors concerned is vital.

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<sup>7</sup> Council Conclusions (Environment), 12 December 2001 [15280/01], No. 17.

<sup>8</sup> All point 4 of the Council conclusions.

<sup>9</sup> Council of the European Union: Road Map on the Follow-up to the Conclusions of the European Council on the EU Sustainable Development Strategy (SDS) - Distribution of Work within the Council, Timetable and Identification of Priorities, 7 March 2002 [6837/1/02].

<sup>10</sup> Council Conclusions (Environment), 12 December 2001 [15280/01], No. 14.

<sup>11</sup> Point 17 of the Council conclusions.

### 3.2 Purpose and Scope of the Belgian Presidency (in office from July to December 2001) Study

The Conclusions of the Environment Council must now be put into operation. To elaborate possible actions, the Belgian Presidency of 2001 commissioned this study 'EU Environmental Governance: A Benchmark of Policy Instruments'.

In the course of this study, two **objectives** set out by the general policy context have to be considered and combined:

- the commitment to a high level of environmental protection as required by Article 2 of the EC Treaty, and
- the Lisbon objective of 'becoming the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion'.<sup>12</sup>

The first objective, which is Treaty-based and legally binding, asks the Lisbon process to consider environmental concerns. The other way around, the Lisbon process commits environmental policy not to hamper economic development and to help reach this aim. Both objectives call for implementation and thus need to be acted upon.

In order to implement these objectives, **instruments** are needed. Here, traditional environmental policy instruments (mainly legislation), have to be distinguished from new instruments (mainly non-legislative). To make instruments an effective steering mechanism for implementing political goals, they must be connected to specific targets and timetables.

Two modes of **policy making** correspond to this two-dimensional approach on instruments: on the one hand, there is the traditional way of environmental policy making and its legislative instruments (Community Method). On the other hand the Open Method of Co-ordination (OMC) - a soft policy instrument - has been gaining ground from the mid-1990s onwards and reached a milestone with the Lisbon summit. This instrument gives new credence to the non-legislative kind of instruments, such as voluntary agreements, action plans, etc.

Environmental policy-makers now have to decide how to handle these two approaches of policy making. Should they abandon the traditional way of policy making and its instruments and commit themselves fully to a new way of policy making, which may imply a growing danger of non-compliance? Or should they stay with the traditional way, thus ignoring new developments like the Lisbon process, which offer the possibility of increasing synergies and legitimacy as a result of cross-sectoral co-operation? Surely, there is a need to further develop and, where possible, combine both approaches of policy-making.<sup>13</sup>

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<sup>12</sup> Conclusions of the European Council (Lisbon), 23 and 24 March 2000 [100/1/00]. See also the Conclusions of the Council (Environment), 4 March 2002 [6859/02], No. 12: '...and use energy and natural resources in a way that respects the carrying capacity of the environment'.

<sup>13</sup> This approach was also supported by two Memorandums emerging from the discussions on the workshop of 5 March 2002 in Brussels. One was directed to the Barcelona Council and the other to the Convention on the Future of Europe.

To outline possible ways forward, this study will:

- systematically identify and analyse ongoing European policy processes, which have strong implications for EU environmental policy,
- highlight the problems for EU environmental policy emerging in this context, and
- contribute ideas on how to face these challenges.

#### **4 Baseline: EU Environmental Policy and Governance in 2001**

What exactly does the often quoted term 'EU Environmental Governance' mean? First of all, it refers to how environmental policy at the European level works. This covers the structural organisation of European environmental policy as well as its processes. Of course this is not new, but governance has become a hotly debated topic, launching several processes at the European level, which are not all directly linked to EU environmental policy:

- developing the Lisbon process
- adopting the White Paper on Governance
- constituting a Convention in order to discuss the future of Europe

Although environmental policy is not directly addressed, all these processes have implications for EU environmental policy. The White Paper, for example, promotes pilot projects for implementing better governance in the field of environmental policy (tripartite agreements). The Convention on the Future of Europe prepares proposals for reforming the future institutional and legal structure of the EU, which also sets the framework for environmental policy making. Finally, the Lisbon process could mark an environmental highlight within the listed processes. Unlike the White Paper or the Convention, the Lisbon process has explicitly adopted its own environmental dimension, although originally environmental aspects were not foreseen.

The Lisbon process was launched by the 2000 European Council in Lisbon, which decided that the EU was 'to become the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion'<sup>14</sup>. This strategic self-commitment, set down in the so-called Lisbon strategy, was followed by a series of initiatives. Firstly, at the Nice European Council a social dimension was added to the economic orientation of the Lisbon strategy. Secondly, the Göteborg European Council in June 2001 decided to add to the EU Sustainable Development Strategy a third, environmental dimension to the Lisbon strategy. Thus, the European Council 'confirmed with the European Union's Sustainable Development Strategy, the need to ensure the consistency of the different policy strands with long-term objectives'<sup>15</sup>.

For EU environmental policy this development brings a new orientation. Traditional environmental policy is confronted with a new kind of policy making and has to consider how to address the new situation. Two processes already mark the beginning of such a

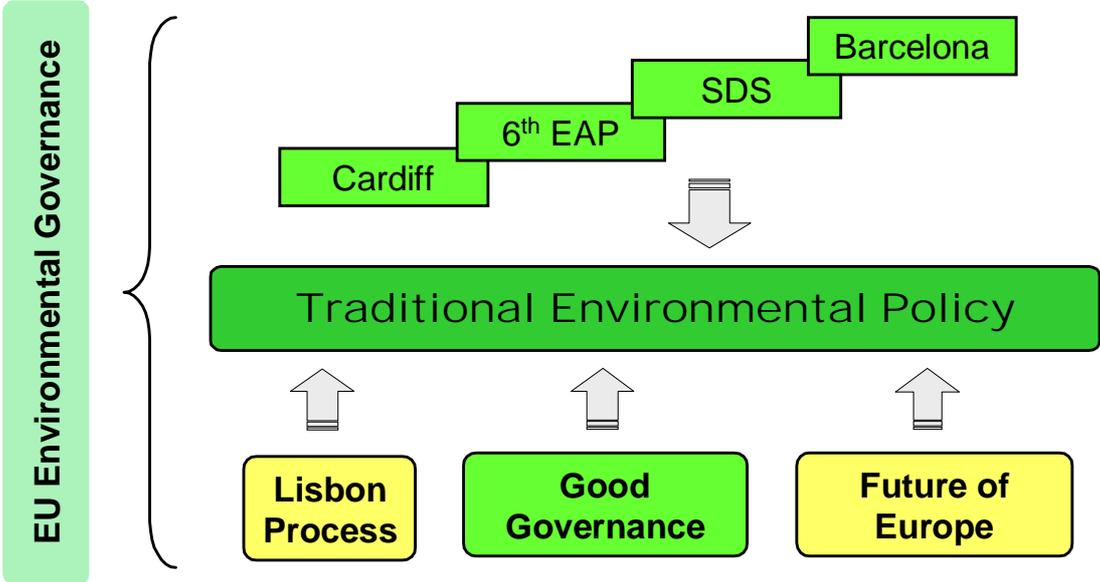
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<sup>14</sup> Conclusions of the European Council (Lisbon), 23 and 24 March 2000 [100/1/00], No. 5.

<sup>15</sup> Communication from the Commission to the Spring European Council in Barcelona: The Lisbon Strategy - Making Change Happen, COM(2002)14 final, p. 5

development: the Cardiff process with its integration strategies and the Sixth Environment Action Programme with its thematic strategies.

**Chart 1: Processes influencing traditional environmental policy**



**4.1 Traditional Environmental Policy**

For the past quarter century, the EU’s environmental policy has been based overwhelmingly on a ‘command and control’ regulatory approach through the application and enforcement of Community legislation. There are now over 200 major environmental directives, regulations and decisions which establish standards in relation to environmental quality, or polluting emissions, or product specification, or set common approaches to various aspects of environmental management in the Member States. All these pieces of legislation have been considered and adopted by the Community’s institutions through the so-called ‘Community method’ – that is, the development of proposals by the Commission; their amendment and adoption as legal instruments by the Council of Ministers and the European Parliament ; and their enforcement ultimately by the European Court of Justice.

There is no doubt that this traditional approach to environmental policy has achieved significant successes - particularly in relation to securing improvements to water and air quality – and that the use of legislation agreed through the Community method must continue to play a major role in securing environmental improvements. Environmental legislation has been most successful in relation to controlling pollution from identifiable point sources, but has been less effective in tackling diffuse forms of pollution or resource use. Moreover, there remains a significant implementation gap in many Member States, which is likely to get worse as the EU enlarges to 27 or more Member States. And cross-cutting issues such as climate change and better resource management demand that environmental objectives should be *integrated* into a wide range of sectoral activities, for which command and control legislation may be supplemented by other appropriate instruments. This process - sometimes known as 'environmental policy integration' (EPI) - is aimed at ensuring that the

needs of the environment (such as reducing resource use and pollution, and protecting biodiversity) are considered, respected, and preferably advanced in the process of choosing policy options and establishing implementation arrangements for sectoral policies that have potentially significant impacts on the environment. These include policies in relation to agriculture, fisheries, energy, economic development, tourism, etc. Besides this, it is also possible for the Environment Council to adopt measures, which aim at regulating other policy areas, e.g. through the Nitrates Directive. Additionally, processes are necessary, which provide a link between the different Community policies.

In addition to such '**horizontal**' integration, '**vertical**' integration is also required to tackle such problems as the environmental impacts of transport, for which responsibility within the EU is shared among different levels of government and other actors.

A further weakness of the traditional Community method is that legislation may take many years to develop and be agreed upon because of the cumbersome nature of the co-decision procedure. This has contributed to calls for the use of more flexible instruments and procedures. One such approach is the 'Open Method of Co-ordination' which is being used at EU level in a number of policy domains including economic, employment and social policies (see below). OMC is based principally on the voluntary co-ordination of Member States policies, and stresses the importance of shared policy learning. Elements of OMC could play an important role alongside traditional environmental policy approaches in the future.

**Table 1: Mechanisms for Open Method of Co-ordination**

	Economic/Monetary	Employment	Poverty/Social Inclusion	Environment*
<b>Treaty base (Articles)</b>	99ff, 133 (introduced by the Maastricht Treaty)	129ff (introduced by the Amsterdam Treaty)	136-140 (to be introduced by ratification of the Nice Treaty)	☹
<b>Dates from</b>	Council recommendation of 14 February 1994	Luxembourg European Council, November 1997	Lisbon European Council, March 2000	<i>Gothenburg European Council</i>
<b>Primary focus</b>	MSs and EU	MSs	MSs	<i>EU and MSs</i>
<b>Long-term strategy</b>	Stability and Growth Pact	European Employment Strategy	Social Inclusion Strategy	<i>6EAP &amp; Cardiff process</i>
<b>Guidelines (including targets, timetables,...)</b>	Broad Economic Policy Guidelines (BEPG)	Employment Guidelines (consistent with BEPG)	☹ (under development)	☹
<b>Indicators</b>	Yes	Yes	Yes	<i>forthcoming</i>
<b>European Council role</b>	Sets priorities at Spring European Council	Sets priorities at Spring European Council	Sets priorities at Spring European Council	<i>Sets priorities at Spring European Council</i>
<b>Advisory Committee</b>	Economic Policy Committee & EFC	Employment Committee	Social Protection Committee	☹
<b>Stakeholder participation</b>	☹	Annual tripartite Social Affairs summit (pre-Spring Council)		☹
<b>National Action Plans</b>	☹ - 'info on important measures'	Yes	Yes (biannual)	<i>Voluntary or within SDS</i>
<b>Performance monitoring</b>	Surveillance by Commission	MS Annual Reports	☹	☹
<b>Peer review</b>	☹	Council peer review	☹	<i>EPRG; IMPEL = ☺</i>
<b>Recommendations to indiv. Member States</b>	Commission, endorsed by Council	Possible under Treaty	☹	☹
<b>Commission/Council Report to European Council</b>	Yes	Yes	Joint Social Inclusion; health & long-term care	☹
<b>Frequency of process</b>	Annual	Annual	Bi-annual	☹
<b>Sanctions/Incentives</b>	<ul style="list-style-type: none"> <li>Sanctions for persistent excessive budget deficit;</li> <li>support when a MS 'in difficulties';</li> </ul>	<ul style="list-style-type: none"> <li>European Social Fund</li> <li>Support for pilot projects; good practice exchanges</li> </ul>	☹	☹ (conditionalities for structural funds)
<b>Candidate countries?</b>	☹	?	Proposed	<i>Proposed (EU SDS)</i>
<b>Other</b>			Health, housing added	

**Notes:**

1. '☹' = no procedures so far in place.  
\* = indicates existing mechanisms and procedures that could be developed for OMC purposes.
2. The mechanisms for OMC are mainly driven by the Council, although in some cases in collaboration with the Commission.

## 4.2 Sixth Environment Action Programme

The EU's Sixth Environment Action Programme (6EAP) sets the framework for EU environmental policy until 2010. As such, it forms the main environmental contribution to the EU Sustainable Development Strategy and its four priorities - climate change; environment and health; protecting nature and biodiversity; and promoting the sustainable use of natural resources and waste management - coincide with four of the six priorities in the SDS. A major innovation compared with the Fifth Programme will be the development of seven Thematic Strategies setting specific objectives, targets and timetables; identifying appropriate mixes of instruments; and establishing monitoring and reporting arrangements. The seven Thematic Strategies (see also chart 6) will be developed over the next 3 to 5 years with the active participation of Member States, all relevant Commission services, and a broad range of stakeholders. They are accompanied by two Strategic Approaches: an integrated product policy and the territorial dimension.

The 6EAP highlights a number of cross-cutting themes and principles which should be reflected in each of the Thematic Strategies. In relation to **policy effectiveness**, environmental policy proposals should be based on the best available scientific evidence. More and better data on the state and trends in the environment should be collected, and the priorities of the Community's Sixth Research Framework Programme should reflect the priorities of the 6EAP. *Ex ante* and *ex post* evaluation is required for improved knowledge of the likely and actual effects and effectiveness of specific policy measures.

In addition, policies should be developed on the basis of **extensive participation** of all stakeholders, including the general public, local authorities and Non-Governmental Organisations (NGOs). Public awareness of environmental issues and EU policies should be enhanced through early ratification by the Community of the Aarhus Convention, and additional finances should be made available to support the work of environmental NGOs.

**Integration of the needs of the environment into sectoral policies** should be strengthened. The 'Cardiff' integration strategies should be followed up, and appropriate targets, timetables and indicators developed. Impact assessments of major Commission proposals should also be introduced.

**A broader range of policy instruments** should be employed, including 'getting the prices right' through tackling environmentally harmful subsidies and encouraging the use of environmental taxes and incentives; the introduction of tradable permits; improved consumer knowledge; environmental management and procurement systems; and sustainable land-use planning in urban, coastal and other sensitive areas.

**Implementation and enforcement** of EU measures need to be tightened through more systematic reviews of implementation across Member States; exchanges of best practice through IMPEL; and a programme of support and advice to improve compliance among SMEs.

**More effective and efficient reporting systems** need to be developed to make available to policy makers and the public more policy-relevant, reliable and comparable information, while at the same time streamlining the plethora of individual reporting obligations faced by Member States.

### **4.3 Cardiff Process**

The European Council in Cardiff under the British Presidency in June 1998 was fundamental for the development of the 'Cardiff process' for environmental policy integration (EPI). In its Conclusions, the Presidency requested all relevant Council configurations to develop their own strategies for integrating the environment and sustainable development into their respective policy areas.<sup>16</sup> In this way, part of the foundation for fulfilling the obligation in Article 6 of the EC Treaty to integrate the requirements of environmental protection into the definition and implementation of all Community policies was laid.

#### **4.3.1 Common Agricultural Policy**

Environmental concerns have been on the agenda for agriculture policy at the EU level for several years, starting in the mid 1980s and developing in stages to the Agenda 2000 agreement in 1999. There have been several contributions by the Commission to the analysis of the problem, as well as active debate within individual Member States and by civil society. There has been no lack of appreciation of the importance of agriculture in generating environmental pressures and in sustaining valued cultural landscapes in Europe. The more contentious questions have concerned the extent to which environmental priorities should be internalised within the Common Agricultural Policy (CAP) and other EU policies. At the same time, it has been notable that some of the most important EU environmental directives applying to the agriculture sector, such as the Nitrates Directive, have not been implemented with sufficient rigour or timeliness by the Member States. National ministries have drawn back from imposing what appear to be significant costs on farmers in a way that has not occurred to the same degree in manufacturing industry.

The process of integrating environmental concerns into the CAP began with measures intended to provide farmers with an incentive to adopt environmentally sensitive forms of management. Much of the subsequent debate has focussed on the growing importance of positive incentives of this kind and the impact of the larger scale incentives for farmers provided by other CAP policies, particularly those in the so-called first pillar of the CAP. From a governance perspective, it is interesting to note that the first pillar measures, some of which are directly production-related, are entirely financed by the Community whereas all of the second pillar measures, including agri-environment schemes are partially funded by the Member States themselves. In terms of instruments, economic incentives have been the major policy measures employed in agriculture and are at the centre of the integration debate.

There are some other classical regulatory measures, such as the Nitrates Directive, and a growing range of legislation concerned with the control of Genetically Modified Organisms (GMOs). The majority of these are classified as environmental measures and therefore come before the Environment rather than the Agriculture Council, with a decision-making procedure following the arrangements for environmental policy specified in the Treaty. This is different from the procedure for agriculture policy, with a lesser role for the European Parliament and more extensive use of regulations which restrict the discretion available to Member States.

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<sup>16</sup> A detailed overview of integration strategies in the three main sectors of this study is provided in Annex 8.3.

External policy pressures, particularly from the World Trade Organisation (WTO), also play an important part in shaping the agriculture policy, with major consequences for the environment. For example, the transition towards payments to farmers which are ‘decoupled’ from production has been driven to a considerable degree by the WTO and has had important environmental consequences.

Turning to the ‘Cardiff’ integration strategy agreed by the Council on the 24th April 2001, we find an emphasis on the implementation of the Agenda 2000 agreement rather than proposals for a set of new measures. The strategy was developed by agriculture Ministries with limited consultations with other stakeholders. It does not attempt an original analysis but builds on existing documents and measures. It underlines the potential environmental benefits from appropriate implementation of the Agenda 2000 agreements. There is a particular focus on:

- amendments to certain sectoral market regimes;
- the ‘second pillar’ of the CAP where the need for monitoring and evaluation is underlined;
- relevant elements of the Structural Funds and EAGGF;
- the SAPARD Regulation (most CEECs have included relatively small scale agri-environment pilot programmes in their SAPARD proposals);
- the development of agri-environmental indicators; a series of studies are in train to produce effective and utilisable indicators; and
- cross references to certain other initiatives, such as the support of organic production and the Biodiversity Action Plan for agriculture.

The strategy does not look significantly beyond Agenda 2000 or propose any innovative policy instruments. However, it does specify dates by which certain reviews of present policy should be completed and looks forward to the further development of the strategy. In the year that has followed, there have been no further strategic documents of this kind although agriculture is discussed as a priority in the Göteborg conclusions on the SDS and a number of new initiatives, including several proposed directives listed in the GAC ‘road map’ on the SDS.<sup>17</sup> In this sense a number of flanking measures, dealing with specific issues such as pesticides are being added to the Cardiff strategy. The strategy itself remains focussed on the core agenda of the CAP in which environmental interests are significant but certainly not the central players.

**Table 2: Instruments for integration in the area of Agriculture**

<b>Economic (market-based)</b>	<b>Information-based</b>	<b>‘Command and Control’</b>	<b>Voluntary</b>
Structural funds	Monitoring & Evaluation Development of agri-environmental indicators	Nitrates Directive Control of GMOs	

<sup>17</sup> Council of the European Union: Note on a Road Map on the Follow-up to the Conclusions of the European Council of Göteborg on the EU Sustainable Development Strategy (SDS) - Distribution of Work within the Council, Timetable and Identification of Priorities, 7 March 2002 [6837/1/02].

### 4.3.2 Energy Policy and Climate

The issue of energy and the environment has been on the European political agenda since the 1980s. Thus, European energy policy belongs to one of the non-environmental policy areas, which has already started to consider environmental concerns, even before it was required to do so by the Cardiff process. The most recent approaches developed in the course of this work are a subject of the 'Report to the European Council on the Strategy for Integrating Environmental Aspects and Sustainable Development into Energy Policy', which is the energy Cardiff strategy.<sup>18</sup> In the meantime, the Council has submitted a follow-up to the strategy,<sup>19</sup> which mainly invites the Commission to come forward with proposals and initiatives in certain areas, that were already outlined in the first strategy. Nevertheless, objectives and targets, measures, indicators or timetables outlined in the strategy (first strategy and follow-up) remain on a very general level and do not go much further than the existing policy initiatives it refers to.

The **objectives and targets** recalled in the strategy are more general principles, than specific aims. One of the objectives set out by the strategy is to 'secure and further promote the integration of environmental aspects and sustainable development into energy policy'. Furthermore, it recalls the three already established goals of Community energy policy: security of supply, competitiveness, and protection of the environment. The strategy's reference to the Kyoto Protocol constitutes the last objective. However, the strategy does not even commit itself to reach the Protocol objectives but only acknowledges the need to respond to the Kyoto Protocol. In this context the strategy calls for developing further common and co-ordinated policies and measures between Member States. The whole strategy does not set any concrete or medium-term targets, but refers to already existing targets, which are not explicitly reiterated (e.g. on the share of renewable energy). Therefore, there is a need to further elaborate a way to achieve 'a sustained commitment to energy efficiency and energy saving [through] developing the use of safe energy sources with low or no CO<sub>2</sub> emissions'.<sup>20</sup>

In pursuing the above mentioned objectives, the Council suggests the following **priority areas of action** and measures:

- developing the internal energy market by promoting a sustained increase of renewable energy sources and fostering the contribution of renewable energy sources to the overall energy supply,
- in order to enhance energy efficiency and saving combined heat and power shall be fostered,
- internalising external costs and environmental benefits,
- promoting the research, development, demonstration and market introduction of new and advanced technology and techniques,

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<sup>18</sup> Council Conclusions (Energy), 3 December 1999 [13773/99].

<sup>19</sup> Council Conclusions (Industry/Energy) Strategy for Integrating Environmental Aspects and Sustainable Development into Energy Policy - Council Resolution, 14 and 15 May 2001, [8538/01].

<sup>20</sup> Point B of the Strategy.

- increasing co-operation and co-ordination between Member States, e.g. by improving sustainable consumption and production patterns,
- enhancing the external dimension and enlargement by informing candidate countries on initiatives concerning the strategy,
- contributing to developing flexible mechanisms to facilitate meeting the commitments of the Kyoto Protocol.

Special emphasis for pursuing the objectives is given to already existing programmes and actions, such as the Internal Market Directives for electricity and gas, the Community Energy Framework Programmes and its sub-programmes, the Council Resolution on renewable energy, the 5<sup>th</sup> Framework Programme for Research and Development, and the Action Plan for Energy Efficiency in the European Community.

In order to give effect to the priorities of action, a range of **instruments** in the following categories are named:

The most important role within the energy strategy is played by the **economic instruments** which cover:

- analysis/review of implications of emission trading (with a view of Kyoto),
- energy taxation (proposal for a Directive),
- contribution to develop joint implementation (Kyoto),
- Clean Development Mechanism (Kyoto),
- market access,
- review of energy subsidies in Member States.

Although economic instruments are well covered in the strategy, it is important to emphasise that the aim should be the protection of the environment and that market access should only be a side effect. Moreover, most of the proposed economic instruments are not designed for immediate implementation, and the strategy only indicates in which ways they should be elaborated.

**Information-based** instruments cover a smaller part of the proposed actions. They include labelling requirements, which should be strengthened in order to improve energy efficiency as well as the following instruments:

- reviewing the compatibility and consistency of relevant energy legislation with sustainable development objectives,
- monitoring of energy markets with qualitative and quantitative indicators,
- reinforcing the sharing of experience and improving co-ordination between Member States.

Furthermore, the strategy refers to the 5<sup>th</sup> Research Framework Programme but it does not mention any more specific educational or assessment instruments.

Similar to the information-based instruments, only very few **'command and control'** instruments are outlined in the strategy. Energy efficiency standards belong to this kind of instrument.

In addition to the economic, information-based and ‘command and control’ instruments, **voluntary agreements** are mentioned in the strategy. In order to conclude effective voluntary agreements, the dialogue with enterprises and industry associations needs to be strengthened.

**Table 3: Instruments for integration in the area of Energy**

Economic (market-based)	Information-based	‘Command and Control’	Voluntary
Analysis of implications of emission trading	Review of relevant legislation	Energy efficiency standards	Strengthened dialogue with industry
Energy taxation	Monitoring of energy markets		
Contribution to develop joint implementation	Share experience between MSs		
Clean Development Mechanism			
Market access			
Review of subsidies			

**4.3.3 Transport and Mobility**

The Fifth Environmental Action Programme included transport among the five priority sectors for integration, recognising that the present approach and existing measures were not adequate to deal with the expected growth in international competition and the upward trends in Community transport activity. In response, the Commission published a Green Paper and a White Paper on the future development of the Common Transport Policy in 1992. The latter was reviewed and updated in 2001, in a White Paper which focused strongly on achieving modal shift towards rail and water transport (see below). It also foreshadowed a new policy on alternative fuels for the transport sector, with an initial emphasis on biofuels, and the possibility of a voluntary agreement with operators on improving environmental performance in the rail sector.

The Transport Council integration strategy, adopted in October 1999, implicitly acknowledged the limited success of integration attempts to date, which had been largely confined to reducing polluting emissions from new vehicles, stating that the ‘indefinite continuation of current trends in the growth of private and commercial road transport and aviation is unsustainable in relation to environmental impacts’. It recognised the need for packages of policy measures to influence transport demand and travel behaviour.

Work on the strategy has been supported throughout by a Joint Expert Group (JEG) on Transport and Environment, consisting of one transport and one environment expert from each Member State. The existence of such a group, which pre-dates the Cardiff process, itself distinguishes transport from other sectors in the integration process. In a similar way the joint Council meetings of the transport and environment Council improved the quality of the strategy.<sup>21</sup> In September 2000, the JEG produced a strategic review of transport and environment policy applying a systematic approach to operationalising the concept of ‘environmentally sustainable transport’, addressing the various policy measures available

<sup>21</sup> Council of the European Union (Environment/Transport) 1998: 2107th Council Meeting - Environment/Transport, 17 June 1998 [09403/98].

and advocating further work by the Commission on objectives and targets, although to date, these remain quite limited.

A further distinctive element of the transport strategy was its early adoption of a system of sustainability indicators under the framework of the 'TERM' (Transport and Environment Reporting Mechanism) project. The first annual update of this was published in 2001. The environment-related structural indicators agreed by the Council in December 2001 also included two transport indicators out of the seven.

The Transport Council adopted a Resolution on its strategy at its meeting of 4-5 April 2001. This Resolution includes a strong statement of overarching objectives. Three main requirements are set out for a sustainable transport system, including one that it should meet human requirements 'in a manner consistent with human and ecosystem health', and another that it should 'limit emissions and waste within the planet's ability to absorb them', placing similar limits on the sustainable rates of use of both renewable and non-renewable resources. It also calls for further work on the possibility of quantitative sectoral targets.<sup>22</sup>

The Heads of State and Government in the Conclusions of the Göteborg Summit in June 2001 subsequently called for a 'significant decoupling' of transport growth and GDP growth.

The **Joint Environment and Transport informal Council** in September 2001<sup>23</sup> came to the following conclusions regarding integration:

- The European Commission should adopt a proposal for a framework directive on fair and efficient infrastructure pricing.
- The European Union's Member States suggest, that the forthcoming Assembly of the International Civil Aviation Organisation should decide on the introduction of taxation of kerosene at the international level. Several Member States have stressed the need to envisage acting at European Union level if taxation is not possible at the international level.
- The revision of the directive governing the minimum level of excise taxes on mineral oils should be examined as soon as possible by the Ecofin Council.
- The Presidency encourages the European Commission to ask the JEG to help to monitor the implementation of the integration strategy and to produce regular recommendations in this area.
- The monitoring bodies examining the environmental performance of the transport sector, such as TERM, are vital to guarantee the effective integration of environmental concerns into transport policy, and also help to develop decision-making tools enabling more effective measuring of the environmental impact of transport policies.
- To attain sustainable development, measures beyond the scope of the common transport policy will need to be taken. The Presidency therefore encourages national and EU authorities of various responsibilities (i.e. town and country planning) to co-operate more closely with transport authorities in order to promote integrated and sustainable policies.

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<sup>22</sup> Joint Environment - Transport Council under the Belgian Presidency of the Council of the European Union: Integrating Transport and Environment Policies: Through (and Beyond) Modal Shift, 14-16 September 2001, Leuven - Ottignies - Louvain-la-Neuve.

<sup>23</sup> idem.

The Council strategy does not of itself propose specific measures or instruments, but the Commission's White Paper includes an extensive list.

**Economic instruments** are predominant in this package, including the following main areas of proposals:

- further measures to liberalise the rail freight sector, in order to improve its competitive position relative to the road sector;
- a commitment to negotiate a kerosene tax by 2004 for air transport, and the introduction of route charging;
- a range of measures to encourage maritime and inland waterway transport;
- further measures to eliminate infrastructure bottlenecks, including an additional list of priority projects for the trans-European Transport Network;
- a new proposal to harmonise fuel taxation for commercial road users as a single market measure, with a target date of 2003;
- a proposal to allow duty reductions to promote liquid biofuels for transport;
- a target of maintaining a 35 per cent share for rail in the accession countries, and an aspiration to provide better transport funding in these countries.

**Information-based instruments** in contrast are quite limited, although the existence of the TERM mechanism (discussed above) is a distinctive overarching feature of the Transport strategy.

**Command and control measures** include:

- tighter regulation of the road haulage sector, in order to rebalance the burden of legislation in favour of rail freight;
- a proposed measure to mandate a minimum percentage of liquid biofuels in road transport fuels.

Possible voluntary agreements include a new 'dialogue' with the rail industry to improve environmental performance. There are also plans to extend the agreement on reducing CO<sub>2</sub> emissions from passenger cars.

**Table 4: Instruments for integration in the area of Transport**

Economic (market-based)	Information-based	'Command and Control'	Voluntary
Further measures to open the market for rail freight	TERM mechanism	Regulation of the road haulage sector	New dialogue with the rail industry on voluntary agreements
Kerosene tax	Actions on driving behaviour, including road safety	Minimum percentage of liquid biofuels	Agreements on extended reduction of CO <sub>2</sub> emissions from cars
Range of measures to encourage short-sea shipping & inland waterway transport	Car free day and mobility week	Land-use planning policy guidelines through ESDP <sup>24</sup>	Promotion of mobility plans by enterprises and factory plants
Measures to eliminate infrastructure bottlenecks			
Harmonise fuel taxation			
Duty reductions to liquid biofuels for transport			
Harmonise road pricing and infrastructure charging			

#### 4.3.4 Internal Market

The Commission's 1999 Communication on the Single Market and the Environment<sup>25</sup> acknowledged areas of tension between the functioning of the open market and some environmental policy objectives. It noted that: 'Environmental standards are sometimes perceived as barriers to market access, open markets as a threat to the quality of the environment'. The 'Cardiff' strategy produced by the Internal Market Council - *Strategy for Integrating Environmental Protection and Sustainable Development into Internal Market Policy - Report to Göteborg European Council, June 2001* - seeks to address some of these tensions, and highlights the potential for synergy between the two areas.

However, the strategy contains no quantified targets, timetables or indicators. It is principally focused on *procedures, structures and instruments*, rather than environmental outcomes or impacts.

Among the proposed general procedures and structures are:

- better transposition of EU legislation by Member States
- more and better Regulatory Impact Assessments of Commission proposals
- notification to the Commission of national environmental measures under Directive 98/34
- mutual recognition of national standards
- chemicals: substitution of dangerous by less dangerous substances; authorisations; restrictions on use.

The strategy highlights the potential contribution of a range of policy instruments, in the following categories:

**'Getting the prices right'**: environmental taxes and charges should be a 'major component' of 'a comprehensive policy'. State aid should be permissible only for environmentally-sound

<sup>24</sup> European Spatial Development Perspective.

<sup>25</sup> COM(1999)263

projects. Commission guidelines on State aid 2000-2007 allow support in specified circumstances to a wide range of activities, including renewable energy, waste management and meeting Community environmental standards. They set maximum rates and periods for support, but provide a range of flexible options from which Member States may choose. Aid may be authorised up to a maximum percentage of gross eligible costs, as follows:

- *investments by firms to comply with new legal environmental standards* – 15 per cent for small and medium sized enterprises (SMEs)
- *aid to encourage firms to go beyond mandatory environmental standards* – 30 to 40 per cent, with higher rates available for energy-saving, combined heat and power or renewable energy investments
- *investment in renewable energy to supply an entire community* – 10 per cent
- *rehabilitation of polluted sites* – if the person responsible is not known, 100 per cent of eligible costs (cost of work less increase in the value of the land) plus 15 per cent of the costs of the work.

**Education, Information and awareness:** the strategy calls for greater take-up of eco-labels, and the inclusion of environmental considerations in company annual reports.

**Integrated product policy:** the Commission's Green Paper on Integrated Product Policy (IPP) is considered a core part of the integration strategy. It defines three goals and suggests various instruments for achieving them:

- stimulating consumer demand for greener products;
- stimulating business leadership in the supply of green products, in particular through eco-design guidelines, and greater environmental input into product standards;
- use of price mechanisms such as reduced VAT rates and producer responsibility.

**Voluntary agreements** with industry should be encouraged provided they are transparent and effective, and increased registrations under environmental management systems such as EMAS should also be encouraged.

**Public procurement:** the Commission's Communication on environmental aspects of public procurement, followed by the political agreement (31/05/02) on the 'classic' directive<sup>26</sup> in view of a common position to be adopted under the Danish Presidency, have clarified the possibilities of incorporating environmental considerations into public purchasing decisions.

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<sup>26</sup> Commission Interpretative Communication on the Community law applicable to public procurement and the possibilities for integrating environmental considerations into public procurement. COM(2001)274, 4 June 2001.

**Table 5: Instruments for integration in the area of Internal Market**

Economic (market-based)	Information-based	'Command and Control'	Voluntary
Environmental taxes and charges	Eco-labels	Restrictions on use and authorisations for dangerous substances	EMAS
Reorganise state aids	Include env. consid. in company annual reports		
Inclusion of environmental considerations in public procurement	Stimulate consumer demand for green products  Stimulate business leadership in the supply of green products  Impact Assessments		

#### **4.3.5 Cohesion Policy**

The EU's Cohesion Policy is made operational through the three Structural Funds (ERDF, ESF and EAGGF (Guidance Section)), and additionally - in the four 'cohesion' Member States – through the Cohesion Fund. Integrating environmental considerations into the use of these funds may take two forms:

- *precautionary* - the establishment of procedures to ensure that cohesion spending does not inflict environmental damage;
- *positive* - the use of structural instruments explicitly for the purposes of environmental remediation or enhancement.

The Cohesion Policy is one of the most decentralised of EU policies, and this is reflected in the fact that there is no separate Council formation that regularly considers cohesion issues. (The General Affairs Council is responsible once every seven years for setting the overall financial framework, and informal meetings of Community spatial planning ministers may from time to time discuss cohesion issues - as they did at their meeting in Namur in July 2001 (see below)). Consequently, cohesion policy was not among the nine policy domains targeted by the European Council as part of the Cardiff process.

However, the General Structural Funds Regulation (1260/1999) includes the following **legal requirements** for integrating the environment into the deployment of the funds:

- a general requirement that the Structural Funds should contribute to the harmonious, balanced and sustainable development of economic activities (and) the protection and improvement of the environment (Art 1);
- the membership of the partnerships responsible for preparing and managing programmes should reflect the need 'to promote [...] sustainable development through the integration of environmental protection and improvement requirements';
- all programmes are to include;
  - a state of the environment report;
  - a strategic environmental assessment of the expected impact of the programme;

- arrangements for ensuring compliance with EU environmental legislation.

The Cohesion Fund Regulation 1164/94 (as amended) contains none of these environmental safeguards, however. In individual Member States, this makes the distribution of structural support between the Structural Funds on the one hand, and the Cohesion Fund on the other, extremely important. (It is proposed that as much as one-third of structural support should be channelled through the Cohesion Fund in the accession countries during 2004-2006, compared with only 18% in existing cohesion countries).

In addition to the Structural Funds Regulation, **Commission Guidance** stresses that sustainable development is one of three 'horizontal principles' that should be mainstreamed throughout all stages of cohesion policy<sup>27</sup>. However, the Commission's Guidance is not explicit about how this should be done.

An element of **environmental conditionality** was introduced by the Commission in March 2000 when Member States were warned that financial support from the Structural Funds was dependent on the submission by Member States of full national lists of Natura 2000 sites, and formal undertakings that such sites would not be damaged by the use of the funds. Similar conditions on Member States were imposed by the Commission in relation to the full implementation of the Nitrates Directive, and the submission of waste management plans under the Waste Framework Directive.

Article 8 of the Habitats Directive 92/43 establishes the principle of **Community co-financing** for measures essential to maintain or re-establish a favourable conservation status on sites hosting priority habitats or species. The Directive is not explicit on the source of such finance, and indeed delays in its implementation mean that Article 8 has yet to come into effect. However, EAGF and the ERDF are two obvious potential sources. Given that potential Natura 2000 sites cover 10-15% of the Community's territory, the sums involved could be substantial.

The high degree of decentralisation in the management of the funds has resulted in a very variable implementation of the legal requirements regarding environmental integration, both between and within Member States. Pressure to spend money quickly, and on conventional economic development programmes, has frequently resulted in a failure to take proper account of environmental concerns. To this extent, the Structural Funds are a good case study of the **potential for conflict between two of the major principles highlighted in the Commission's *European Governance White Paper***: decentralisation and participation, and, better co-ordination and coherence (i.e. integration).

A further challenge to good environmental governance is contained in the Commission's *Second Cohesion Report*<sup>28</sup>, and its follow-up, the *First Progress Report on Economic and Social Cohesion*<sup>29</sup>. The Commission argues that a number of **Community policies, including environmental policy, should take greater account of regional problems**. The Second Cohesion Report draws particular attention to the disproportionate costs that

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<sup>27</sup> European Commission: *The Structural Funds and their Co-ordination with the Cohesion Fund: Guidance for Programmes in the period 2000-2006*, 2 February 1999.

<sup>28</sup> European Commission: *Unity, solidarity, diversity for Europe, its people and its territory: Second Report on Economic and Social Cohesion*. January 2001.

<sup>29</sup> Commission of the European Communities: *First Progress Report on Economic and Social Cohesion* COM (2002) 46, 30 January 2002.

some items of Community waste and water legislation can have on some regions and/or social groups - a situation that is set to worsen with the forthcoming enlargement and the widening of regional economic disparities. It is inherent in the concept of sustainable development (at least in its 'weak' form) that there has to be some trade-off between economic, social and environmental priorities, and that sometimes environmental protection may not take precedence. This challenge is particularly difficult where the needs of economic development and the protection of biodiversity are perceived to be in conflict.

EU Spatial Planning Ministers meeting informally in Namur in July 2001 proposed that they should regularly examine how the needs of territorial cohesion could be systematically considered in the development of relevant Community policies. They also proposed that there should be **joint meetings with relevant 'sectoral' Councils**. Environmental policy was identified as one of four priority areas.

The First Progress Report on Economic and Social Cohesion notes that the EU Sustainable Development Strategy launched at the Göteborg European Council in June 2001 'should enable the outline to be formed of a **'new' model of regional development**, compatible with the Union's aim of promoting balanced development'. This will need to extend the traditional focus of regional development on the accumulation of manufactured capital, to include the development of human, social and natural capital as well<sup>30</sup>.

#### **4.4 Sustainable Development Strategy**

The EU Sustainable Development Strategy was initiated by the Helsinki European Council in December 1999, which invited the European Commission to prepare a proposal for a long-term strategy dovetailing policies for long-term ecological sustainable development in time for the Göteborg European Council in June 2001. In Göteborg, the SDS was then adopted, 'which completes the Union's political commitment to economic and social renewal, adds a third, environmental dimension to the Lisbon strategy and establishes a new approach to policy making'<sup>31</sup>. The SDS should be reviewed annually in time for the European Council spring summit. The first such synthesis report was submitted by the Commission to the Barcelona European Council with the Communication 'The Lisbon strategy - Making change happen'<sup>32</sup>.

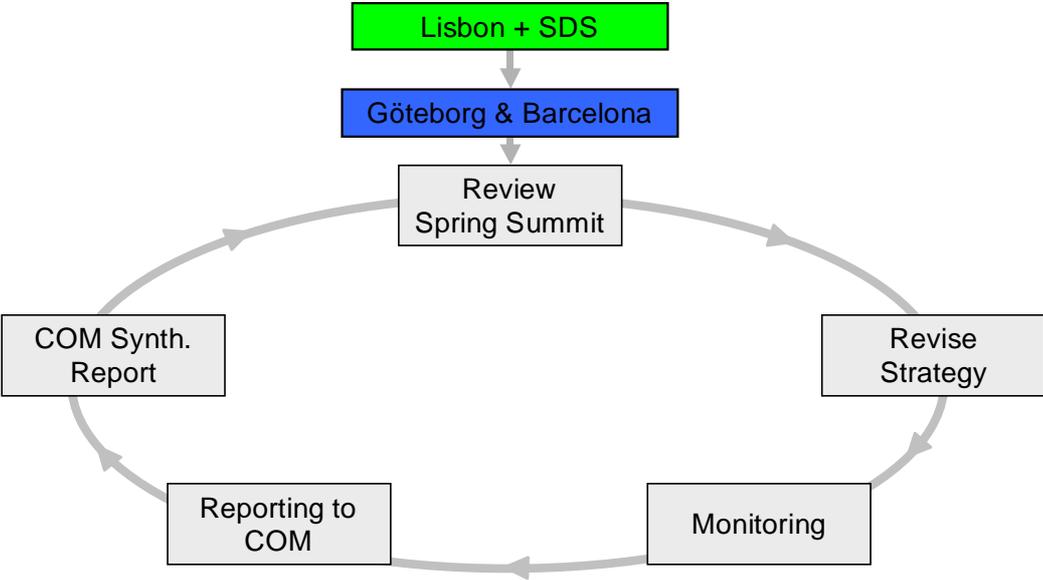
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<sup>30</sup> OECD *Sustainable Development: Critical Issues* – Ch.3: Measuring Sustainable Development. OECD 2001.

<sup>31</sup> Conclusions of the European Council (Göteborg), 16 and 17 June 2001 [200/01], No. 20.

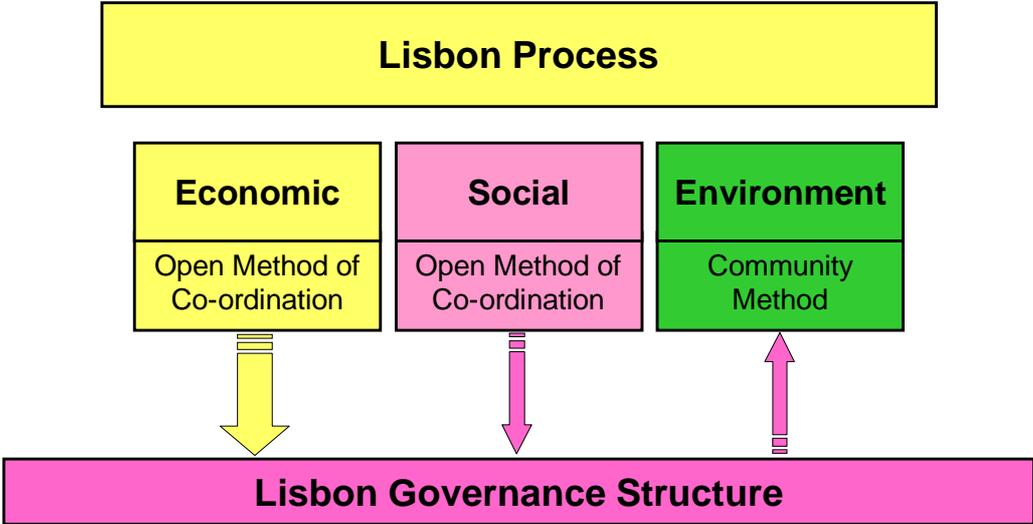
<sup>32</sup> Communication from the Commission: The Lisbon strategy - making change happen, COM 2002(14) final.

**Chart 2: The Lisbon process cycle**



From the environment's point of view, the delivery of this report was disappointing. In the run-up to Barcelona, the European Institutions (EP and Environment Council) as well as Member State governments and environmental NGOs demanded that Barcelona should give a clear political statement in favour of the Sustainable Development Strategy and thus give it the same weight as the economic and social dimension of the Lisbon process. This hope was backed by the ambitious Council Conclusions of the Environment Ministers on 4 March 2002.

**Chart 3: The Lisbon governance structure and its three dimensions**



The Environment Council demanded that the 2002 report should reflect environmental issues in a wider and more extensive manner, that the Commission should issue a proposal on sustainability impact assessment for internal and external policies and that greater emphasis should be put on eco-efficiency and the introduction of environmental technologies. Despite these demands and despite the fact that the Lisbon strategy 'is based on the principle that economic, social and environmental effects of all policies should be examined in a co-ordinated way',<sup>33</sup> the Barcelona Conclusions did not consider the Sustainable Development Strategy in a sufficient manner. However, progress on 'getting prices right' will be achieved with the energy taxation harmonisation foreseen by the end of 2002.

The Sustainable Development Strategy itself identifies **major threats** to sustainable development and contains a number of proposals to address these threats. They include proposals on how the European Union can improve its policy making to make it more coherent and focussed on the long term, as well as a number of specific headline objectives and measures to achieve them. Thus, the strategy is divided into three parts:

- a set of cross-cutting proposals and recommendations,
- a set of headline objectives and specific measures at the EU level, and
- steps to implement the strategy and review its progress.

The first part, **cross-cutting proposals** and recommendations, aims at improving the effectiveness of policy and 'making sustainable development happen'. 'This means making sure that different policies reinforce one another rather than pulling in opposite directions'.<sup>34</sup> This aim addresses an important aspect for EU environmental policy. The use of certain instruments can often have negative impacts on other policy areas; alternatively, other instruments would not have these negative impacts. Measures adopted by other Council formations often do not consider environmental aspects and thus imply negative effects for the environment, for example agricultural subsidies. The same applies the other way around: Certain environmental measures may, for example, have unintended negative effects on social equity, competitiveness or trade. In this context, it is of special importance to find a mix of instruments, which at the same time improves the environment and supports economic or/and social development. In other words this means 'that economic growth supports social progress and respects the environment, that social policy underpins economic performance, and that environmental policy is cost-effective'.<sup>35</sup>

The second part on **headline objectives and special measures** covers four environment-related themes<sup>36</sup>:

- combating climate change,
- ensuring sustainable transport,

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<sup>33</sup> Council Conclusions (Environment) on Environment related headline indicators [14589/01], No. 2.

<sup>34</sup> Communication from the Commission: A Sustainable Europe for a Better World: A European Strategy for Sustainable Development. COM(2001)264 final, 15 May 2001, p. 5.

<sup>35</sup> Communication from the Commission: A Sustainable Europe for a Better World: A European Strategy for Sustainable Development. COM(2001)264 final, 15 May 2001, p. 2.

<sup>36</sup> The two other themes, already covered by the Lisbon process, are: the challenges of an ageing society and the promotion of social inclusion.

- addressing threats to public health, and
- managing natural resources more responsibly.

For each of these areas, specific targets and actions are identified.

For **implementing the strategy** and reviewing its progress, the following proposals were made, which were not all considered by the Conclusions of the European Council in Göteborg<sup>37</sup>:

- To help the annual Spring European Council review the progress with respect to sustainable development, a number of **indicators** additional to those already agreed upon for monitoring the Lisbon strategy must be added. These indicators flow naturally from the long-term objectives and targets the Commission is proposing in this document.
- The Commission **Synthesis Report** to each Spring European Council would consider progress in implementing the Sustainable Development strategy.
- Proposal of a small number of **headline performance indicators** for this purpose by the Commission to the Barcelona European Council in Spring 2002. Performance indicators were suggested by the Environment Council with its Conclusions on environment-related headline indicators for Sustainable Development. The first set of indicators, outlined in Annex I of the Conclusions, only includes seven indicators. A more diversified set of indicators is outlined in Annex II of the Conclusions, and needs to be further developed.
- To continue the process of **integration of environmental concerns in sectoral policies** and provide environmental input to the EU SDS.

Furthermore, the European institutions, namely the Commission, Council and Parliament, are asked to reflect on **reviewing their working methods**. This implies that they consider what steps to take to overcome their institutional weaknesses, i.e. that policy proposals in individual sectors are developed and discussed without paying sufficient attention to the linkages between different policy areas. The Commission will establish a sustainable development 'Round Table' of about 10 independent experts offering a broad range of views, who will report directly to the Commission President in time for the preparation of the Commission's synthesis report to the Spring European Council and make recommendations to improve the coherence of Community Policies.<sup>38</sup>

The SDS proposes to complement the annual report to the European Council by a more **comprehensive review at the beginning of each Commission's term**. This should examine the strategy's effectiveness in achieving sustainable development and include the views of stakeholders. Therefore, the Commission will hold a Stakeholder Forum every two years to assess the EU Strategy (starting in 2002)<sup>39</sup>.

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<sup>37</sup> Communication from the Commission: A Sustainable Europe for a Better World: A European Strategy for Sustainable Development. COM(2001)264 final, 15 May 2001, 13-14.

<sup>38</sup> Communication from the Commission: A Sustainable Europe for a Better World: A European Strategy for Sustainable Development. COM(2001)264 final, 15 May 2001, 14.

<sup>39</sup> Communication from the Commission: A Sustainable Europe for a Better World: A European Strategy for Sustainable Development. COM(2001)264 final, 15 May 2001, 14-15.

## 4.5 Reform of the Council of Ministers

At the Sevilla European Council meeting in June 2002, EU heads of government will consider proposals for a major overhaul of the structure and operation of the Council of Ministers. The reforms - most of which are expected to come into effect by the end of 2002 - are intended to strengthen both the strategic direction of EU affairs and the co-ordination of the work of individual formations of the Council. Preliminary proposals and options for change were set out by the Council's Secretary-General, Javier Solana, in a paper to the Barcelona European Council in March.<sup>40</sup> This focused on three interlinked issues:

- reform of the European Council;
- improving the coherence and co-ordination of the work of sectoral Councils;
- overhauling the operation of the Presidency.

Although environment policy has not been central to the debate on Council reform, the outcome of the Sevilla summit will nevertheless have considerable impact. This is because the way in which the European Council and the Presidency work, and how different Council formations inter-relate, is of fundamental importance to the development of the EU's Sustainable Development Strategy and the Cardiff process on environmental integration. Indeed, one of the reasons for the silence of the Barcelona summit on the future of the Cardiff process was the uncertainty surrounding the future organisation of the Council of Ministers.

### 4.5.1 *The European Council*

According to the Solana proposals:

'For some years now, the European Council has been sidetracked from its original purpose. Owing to malfunctioning of the Council, it is increasingly asked to spend time on laborious low-level drafting work, which adversely affects normal Community procedures. The drift in the workings of the Presidency has reduced its meetings to report-approval sessions or inappropriate exercises in self-congratulation by the institutions'.

Instead, the European Council should be 'de-cluttered' and given space to focus on major long-term, strategic issues, leaving more detailed decisions to be made at lower level.

Although the Secretary-General's paper does not refer to them explicitly, it is clear that the Commission's annual synthesis reports on progress with the EU's SDS and the Cardiff sectoral integration strategies must be counted among the items considered during these 'report approval sessions'. So, if these processes are to continue in their present form, their removal from the agenda of the European Council will require some other formation of the Council to be given responsibility for their detailed review, steering and co-ordination. This suggests the establishment of a new, 'super Council' responsible for horizontal co-ordination.

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<sup>40</sup> *Preparing the Council for Enlargement*. Report by Javier Solana, Secretary-General of the Council. 11 March 2002.

#### **4.5.2 Co-ordinating the work of sectoral Councils**

The 'horizontal' co-ordination of the work of different formations of the Council is theoretically the responsibility of the General Affairs Council (GAC) consisting of EU foreign ministers. However, partly because of the EU's burgeoning external relations portfolio, it has not been fulfilling this role. This has meant that cross-sectoral questions such as climate change, biodiversity and other aspects of sustainable development have not been co-ordinated sufficiently at Council level. Nor has it been possible to ensure that different Councils approach common tasks - such as the production of their environmental integration strategies - in a consistent way.

Therefore, in principle the establishment of a **Horizontal Affairs Council** (HAC), with the mandate and time to give detailed and effective direction to common or cross-sectoral issues, is to be welcomed. Such a Council could also receive and comment on the Commission's annual synthesis report on SDS, to ensure that its economic, environmental and social components are receiving balanced treatment.

There has been much discussion in the run-up to the Sevilla summit about the composition of a possible HAC.<sup>41</sup> Indeed, there have even been suggestions that a hierarchy of Councils should be established - a few 'super-Councils', with 'sub-Councils' reporting to them. Proposals have also been made to reduce the number of sectoral Councils from sixteen to about ten. This raises many questions, including how to identify those Councils to be abolished or amalgamated, and how the Member States would then select the most appropriate Ministers to attend those that remain.

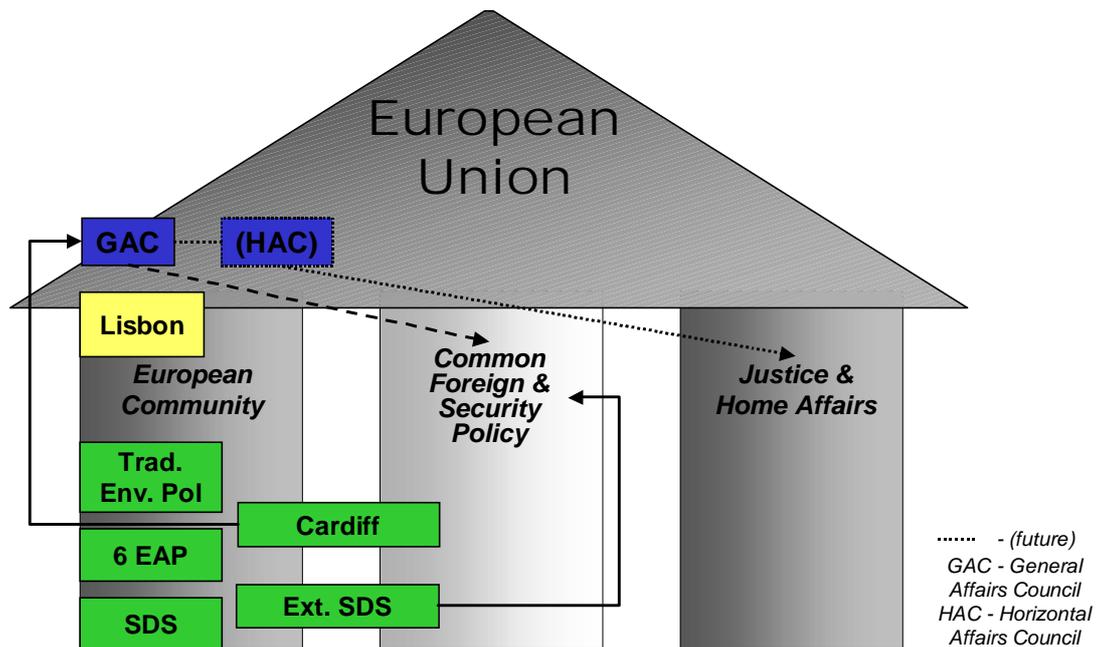
From the point of view of environmental policy, it is important that any reform of the Council should respect the following points:

- as a first priority, the environment should continue to have its own, separate Council, particularly in view of its key role in monitoring the application of Article 6 of the EC Treaty. In case the Environment Council is merged with other Council configurations it, should be ensured that it keeps its own, identifiable structure.
- if a new HAC is to be given a co-ordinating role in relation to the EU SDS and the Cardiff strategies, it will be important that its decisions are supported by a number of Working Groups representing relevant specialist Councils (including the Environment Council);
- policy coherence and co-ordination should not happen at EU level only. A new HAC should be given the task of reviewing and guiding policy integration processes at the level of the Member States, in the framework of their national Sustainable Development strategies.

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<sup>41</sup> Centre for European Reform, Bulletin no 23: *Restoring leadership to the European Council*, April/May 2002.

**Chart 4: GAC and HAC within the three pillars**



### **4.5.3 The EU Presidency**

The Secretary-General's report highlights a number of widely-acknowledged weaknesses of the current system of six-monthly rotating Presidencies:

- each Member State brings to its Presidency its own policy priorities. This works against the consistent implementation of long-term strategies for the EU;
- the ever-expanding EU workload is too much of a burden for one Member State to direct - even a large one;
- the accession of a large number of relatively small and inexperienced new Member States is likely to reduce the effectiveness of the role of the Presidency.

Many options have been proposed to reform the Presidency, including:

- strengthened co-ordination between current, incoming and outgoing Presidencies (the 'troïka');
- 'group' presidencies lasting for periods of up to 2.5 years;
- the replacement of a single Presidency by different presidents for different Councils and working groups;
- the election by the Member States of an eminent European to be President of the European Council for a period of up to five years.

Each of these options have advantages and disadvantages. From the point of view of environmental policy, it is important that the EU SDS and the Cardiff integration process are reviewed and directed consistently over time, and that priorities and timetables established

by one European Council are respected by subsequent ones. Thus, any reform that strengthens strategic planning over time is to be welcomed.

## **5 Benchmarking**

The situation described above forms the framework for making EU environmental policy, and at the same time has a strong influence on this policy. But in which way does it pose a challenge for EU environmental policy? Some examples were already given above, and a more detailed examination of 'what can be done' is given in the following Sections.

### **5.1 Processes with impact on EU Environmental Policy**

Currently, a number of fundamental reforms are being prepared or are already being undertaken that will shape the function, structure and policies of the European Union in all its components. To date, there is no recognition and reflection of the impacts on environmental policies from most or all of these reforms.

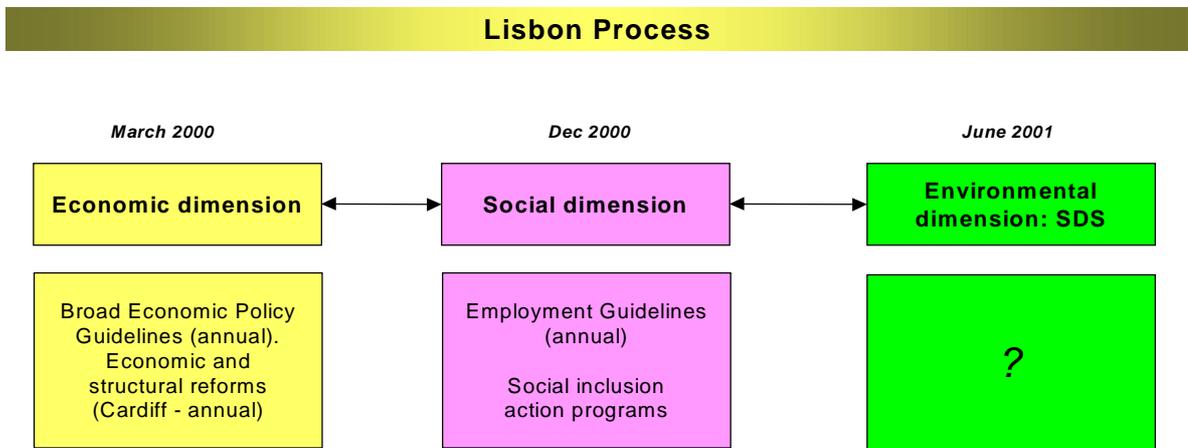
#### **5.1.1 *The Lisbon Process***

The European Council in Lisbon defined a key objective for the EU to become the most dynamic and competitive knowledge-based economic area in the World, and thus to achieve continuous economic growth, job creation, and social cohesion. Progress towards this objective is to be assessed by the Spring meetings of the European Council. The 'Lisbon Process' is developing momentum in defining EU policies in a number of areas, so far without adequate consideration of the environment. The European Council meeting in Barcelona in March 2002 should have been the first to consider environmental policy as a third dimension of the Lisbon Process.

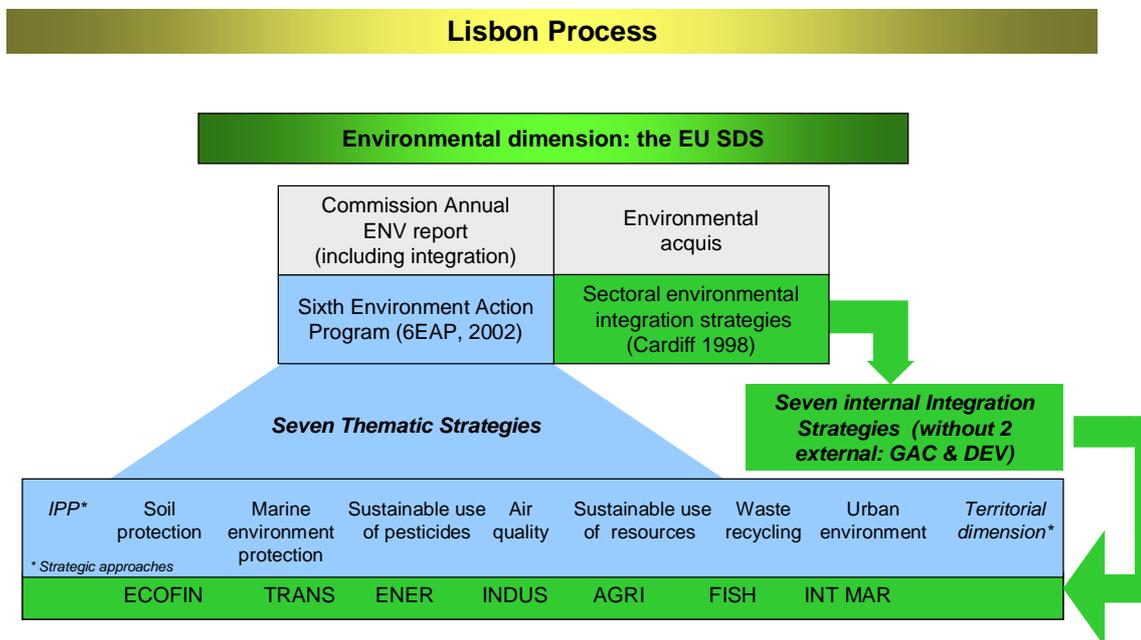
Even if it is called a 'third dimension', the environment is not yet given equal weight with economic and social issues in the Lisbon Process. Sustained support is needed to promote environmental protection and resource conservation to rank equally in terms of text lengths and the number of indicators, but also with respect to the level of ambition, strategic orientation and political importance. Article 6 of the EC Treaty, which establishes the obligation to integrate environmental protection requirements into all Community policies, needs to be fully applied also to the Lisbon Process. Equality also needs to be established in terms of support structures and access to the European Council with respect to problem definition and agenda setting.

Sustainable development, as a concept integrating socio-economic and environmental concerns, should influence all three dimensions of the Lisbon Process, and measures should be adopted to ensure that this is the case.

**Chart 5: Content of the three dimensions of the Lisbon process**



**Chart 6: The Environmental dimension within the Lisbon process**



### **5.1.2 The White Paper on Governance: A Europe Close to its Citizens**

Involvement of citizens and stakeholders is a key element of effective, efficient and legitimate environmental governance at the European level. It requires better opportunities for **participation, consultation, communication, access to information and transparency**. Such measures will increase broad-based support for EU environmental policy, enhance the possibility of adapting measures to societal and local conditions and needs, and render it possible to tap the resources of stakeholders to improve the design and implementation of adequate responses to environmental problems. If compared to most other EU policies, the involvement of citizens and stakeholders is particularly advanced in environmental policy:

- EU environmental policy is based on the principles of **subsidiarity and partnership**. These principles call for the involvement of affected regional and local bodies and stakeholders in decision-making and implementation.
- The existing Access to Information Directive and special provisions in EU sectoral environmental legislation provide citizens and other interested parties **access to environmental information**.
- The forthcoming Public Participation Directive, on which political agreement was reached during the Belgian Presidency, the Environmental Impact Assessment Directive, the Water Framework Directive and other pieces of EU environmental legislation provide for procedural **participation by, and consultation with, stakeholders**.
- EU environmental legislation, such as the Integrated Pollution Prevention and Control Directive or the Water Framework Directive, **delegates decisions to the most appropriate regional or local bodies**.

Although there is a broad support base among citizens for EU environmental policy, the debate initiated by the Commission's White Paper on Governance shows that additional efforts are necessary in all policy areas to further enhance legitimacy, effectiveness and efficiency. The need to correct the **implementation deficit** of EU environmental policy is a case in point. Better involvement of citizens and stakeholders at regional and local levels offers ways to improve implementation. **Enlargement** will lead to a further diversification of environmental conditions, capacities and priorities in the EU. Citizens and stakeholders are uniquely positioned to adapt common responses to regional and local conditions and needs. **Environmental policy integration** has so far proceeded with only very weak direct involvement of citizens and stakeholders. Yet, in the long run the success of environmental policy integration crucially hinges on active support by citizens and stakeholders.

### **5.1.3 The Convention on the Future of Europe**

The Convention on the Future of Europe, which met for the first time on 28 February 2002, is to prepare proposals for reforming the future institutional and legal structure of the European Union. This is necessary to take account of the unprecedented forthcoming enlargement of the Union, to bring institutions closer to citizens, and to shape Europe's new role in a globalised world. The conclusions of the Convention will be considered by an InterGovernmental Conference in 2004.

Europe's future is inextricably linked to global sustainable development by Europe's share of global pollution as well as consumption of natural, fossil and mineral resources, and by its

special responsibility as a leader in research and innovation to promote environmentally friendly production and consumption patterns world-wide. Given the serious decline in environmental quality in many respects, the Convention clearly needs to address the legal and institutional framework for environmental policy, environmental policy integration and sustainable development.

The wide-ranging agenda of the Convention includes several issues that create both opportunities and challenges for EU environmental policy, environmental policy integration, and for advancing the EU Sustainable Development Strategy.

**Four general areas of action**, which will be addressed by the Convention, are identified in order to tackle the challenges outlined above. Within these areas, questions of special importance for environmental governance are raised and are therefore explicitly mentioned in the following:

1. a better division and definition of competencies in the European Union (EU and Member States, and in some cases, the regions)
2. simplification of the Union's instruments
3. more democracy, transparency and efficiency in the European Union
  - reform of the Presidency
  - the roles and structures of different Council formations
  - decision-making procedures (qualified majority)
4. towards a Constitution for European citizens
  - Charter of Fundamental Rights

#### **5.1.4 Enhanced Co-operation**

The fact that there are presently about 100 pending proposals for European environmental legislation - some of which were first tabled more than ten years ago - illustrates the difficulties of producing agreement among the Member States which is necessary to adopt new regulations. These difficulties are likely to increase significantly in the near future as a result of the planned EU enlargement. Against this background, the instrument of Enhanced Co-operation, which was first introduced as part of the Amsterdam Treaty and has since been refined by the Nice Treaty, provides an opportunity to overcome situations of decisional deadlock. Enhanced Co-operation allows a group of at least eight Member States to take joint action and use the institutions and procedures of the European Union for this purpose, thereby further developing European integration in a flexible way where not all Member States are initially able or willing to participate. The interests of non-participating Member States are extensively protected as they need to agree to the establishment of an Enhanced Co-operation and may join in at any point if they are willing and able to do so. However, despite the Treaty reforms, Enhanced Co-operation has not yet been applied in the environmental field or in any other area.

## 5.2 Structures for EU Environmental Policy

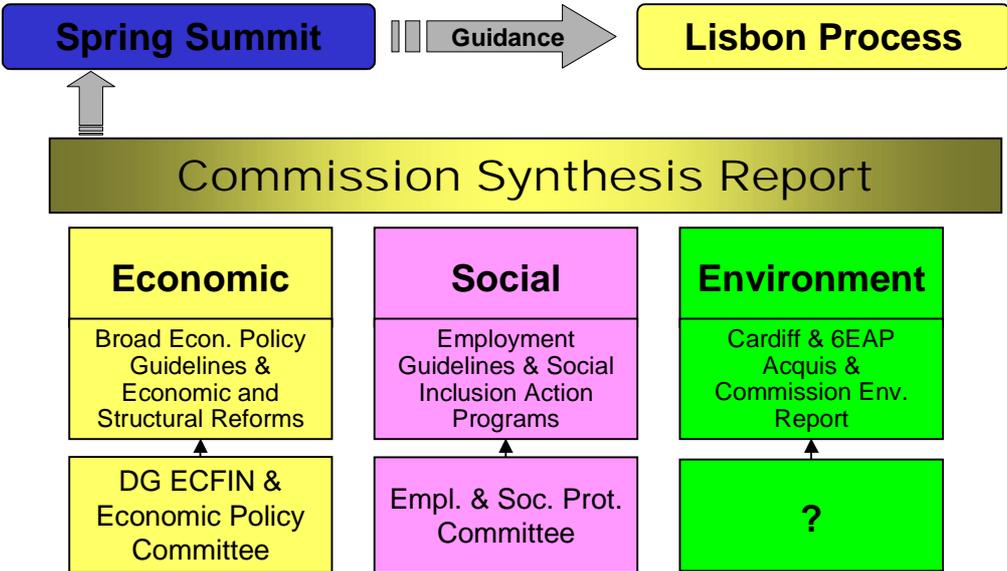
High levels of environmental protection, the integration of environmental protection requirements into practically all other policies, and sustainable development have over time been recognised in the European Treaties as overarching principles, obligations and objectives of the European Union and the Community. This has been in response to intolerable levels of pollution and untenable rates of resource depletion. The requirement for environmental policy integration has been established in recognition of the unsustainable paths chosen in a number of policy areas and the resulting need for reforms. These reforms need to succeed in order to ensure the continued viability of the industrialised economies of Europe while ensuring a move to sustainable consumption and production patterns respecting the carrying capacity of the Earth.

Current structures and procedures in the EC/EU are insufficient in at least the following respects:-

- providing for effective design of new, and implementation of current, environmental policies in all Member States as well as in Applicant Countries. This is evident from the number of infringements procedures;
- ensuring the effective application of the obligation established by Article 6 of the EC Treaty to integrate environmental protection requirements into all other Community policies and measures;
- fulfilling the commitments made by the European Council in Göteborg in June 2001 and the Council (Environment) on 12 December 2001 and ensuring regular and satisfactory follow-up, by providing adequate input concerning the environmental dimension of the EU Sustainable Development Strategy, and informing the European Council (Spring meetings) on environmental policy developments and requirements.

There is undoubtedly a need to establish formal procedures for ensuring coherence between the thematic strategies and other measures produced in the framework of the 6th Environmental Action Programme (6EAP), the *acquis communautaire*, the sectoral 'Cardiff' integration strategies, and the environmental components of the EU's Sustainable Development Strategy.

**Chart 7: Committees providing input into Synthesis Report**



**5.3 Policy Coherence and Consistency**

In order for policies to be effective, the formulation and implementation of decentralised policies, such as environmental policy, should be vertically coherent over several levels or scales (EU, Member States, regions and local authorities). A particular feature of environmental policy as a cross-cutting policy is the need to ensure horizontal coherence in other (sectoral) policies through the process of environmental policy integration. As in any complex policy field, measures to protect the environment and natural resources must also be consistent with one another (internal coherence), which requires interaction and co-operation between the various non-environmental actors dealing with environmental policy and the environment sector. This implies the need for improving communication e.g. between agricultural and environmental actors. The issue of vertical coherence is addressed *inter alia* in the section on implementation, capacity building and tripartite agreements (cf. Chapter 5.4 and 6.4). Horizontal coherence is partly dealt with here and in Chapter 6.2, and also in the section on environmental policy integration (EPI) (cf. Chapters 5.5 and 6.5).

More than in other policy fields, environmental policy requires coherence and consistency over time and across Council presidencies, as well as follow-through of policy action, because it does not have the structural means to ensure coherence. Compared to other Community policies (e.g. economic and financial issues, the Common Agricultural Policy, or the Common Commercial Policy), European environmental policy, especially environmental policy integration and the strategic input into European Councils, suffers from discontinuities and inconsistencies that result from the rotating Presidencies in the Council. Other policy fields, which benefit from stable institutions in the form of special committees, do not suffer

from such disruption. Action is needed in order to extend the benefits of continuous policy formulation to environmental policy.

#### 5.4 Effectiveness of Environmental Policy and its Implementation

Responding to pollution and resource consumption, the EU has adopted many Directives and Regulations. The environmental *acquis communautaire* documents a Community policy, making use of traditional instruments in European legislation. This *acquis* does not yet sufficiently cover all areas of environmental policy, for example soil protection policy is an obvious gap.

With some important directives, there is a shift towards framework legislation establishing principles and procedures, with standards being laid down in annexes, guidance or reference notes or by other means, e.g. daughter directives. The **choice of instruments** is addressed by the Commission Communication on simplifying and improving the regulatory environment.<sup>42</sup> Chapter 2 on 'Well prepared and more appropriate legislation' calls for clarifying the range of instruments in order to achieve greater effectiveness. It emphasises that all possibilities offered by existing types of action should be used and, besides regulatory instruments, explicitly mentions soft instruments such as co-ordination or financial support. This approach, which can be seen as a trend away from the 'Community method' of legal harmonisation, may on the one hand lead to different levels of environmental protection within the European Union. On the other hand, flexible instruments can be better adapted to local needs and thus their efficiency can be increased.

Parts of European environmental policy have been politically difficult to **implement**, resulting in a relatively large number of infringement procedures against Member States. Established mechanisms for improving implementation, such as the IMPEL network, have not succeeded in closing the gaps. Adopting Regulations rather than Directives might ease problems in the transposition of environmental Directives but will not help address shortcomings in the administrative implementation (monitoring and enforcement) of environmental legislation.

The state of the environment in Europe and current trends, such as in the field of waste management or biodiversity decline, indicate that environmental protection policies are still needed. Trans-boundary effects or the need to stimulate capacity building in Member States and Applicant Countries with weak environmental policies and enforcement, for instance, would argue for action at the European level.

Another problem arising within the context of implementation is **reporting commitments**. Effectiveness of the growing body of EU environmental legislation in the Member States can only be properly assessed, if it is known, whether national legislation is effectively reducing the problem for which it was designed, and in the case it does not, if we know the reasons. Is it because the legislation is defective or because there is a lack of will to make it work? The reporting obligations, which are set out in Directives serve different purposes:

- reporting about the state of the environment;
- reporting about what has been done, e.g. plans or programmes;

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<sup>42</sup> Communication from the Commission: Simplifying and Improving the Regulatory Environment, COM(2001)726 final, 5 December 2001.

- information on the extent to which legislation is achieving its objectives.

Regarding reporting obligations in the Member States, various problems lead to insufficient knowledge about effectiveness. Often data are not comparable and thus effectiveness cannot be assessed. As a result Member States lose the motivation to supply the necessary data. Therefore, the 6EAP calls for a review of reporting requirements. Questions which have to be clarified in this context include not only what information we need, or how to evaluate effectiveness, but also who contributes to evaluate effectiveness.

The same problem applies for the **reporting mechanisms under the Lisbon process**. The synthesis report, which is to be delivered to the spring European Council and should monitor progress under the Lisbon process, will contain an input from the Commission's proposed annual environment report. As well as reviewing progress at EU level, this will need to include a review of the impact of the environmental policies of the Member States. Currently, there is no formal mechanism for collecting such information. **The European Environment Agency (EEA)** has the potential to make a major contribution to collecting and analysing information on the effects and effectiveness of environmental policies both at EU and Member State levels - as is clear from its founding Regulation (see Table 6). The Commission should collaborate closely with the Agency to collect all the necessary data. If the Commission feels that some of its actions is too close to policy-making, which is the job of the Commission and not of the EEA, this is a misguided fear, for reviewing and evaluating the effectiveness of existing policies is not the same as making new policies - although it should be an essential ingredient of it.

**Table 6: The EEA's role in relation to environmental governance**

Article 2 of (amended) EEA Regulation 933/1999:

'The tasks of the Agency shall be...

- (II) - to provide the Community and the Member states with the objective information necessary for framing and implementing sound and effective environmental policies; to that end, in particular to provide the Commission with the information that it needs to be able to carry out successfully its tasks of identifying, preparing and evaluating measures and legislation in the field of the environment;
  - to assist the monitoring of measures through appropriate support for reporting requirements

One particular issue with a strong impact on the effectiveness of EU environmental policy is **non-compliance** by individual regions within decentralised or federal Member States. Non-compliance by regions causes problems in cases where the regions have competence for environmental policy but EC Directives are not directly addressed to them but to the Member States.

## **5.5 Environmental Policy Integration (EPI) in the Sectors**

Without action, there is little chance to overcome the apparent inability or unwillingness of some Council configurations to recognise and sufficiently address the full range of (negative) environmental consequences of their policies and decisions. Overall, the setting of objectives and targets in all the Cardiff documents is unsatisfactory, with precise, quantified targets connected to dates or deadlines unestablished. Also, suitable indicators need to be developed and incorporated into existing indicator systems.

### **5.5.1 Energy Policy**

The Cardiff energy strategy fails to identify and discuss the range of environmental problems arising in, and from, the energy sector. It recognises the key role the energy sector has to play in fulfilling Kyoto commitments, but does not develop further strategies for implementing these targets.

### **5.5.2 Common Agricultural Policy**

There is a growing willingness to move forward on the integration of environmental and sustainable development objectives into the Common Agricultural Policy. The Sustainable Development Strategy, for example, calls for an increased emphasis on 'encouraging healthy, high quality products, environmentally sustainable production methods, including organic production, renewable raw materials and the protection of biodiversity'. Several of these themes are being picked up in Member State papers prepared in advance of the mid-term review of the CAP, due to be launched by the European Commission this summer. At the same time, the application of the CAP in candidate countries will be negotiated over the course of 2002. By 2006, a more ambitious reform of the CAP is expected to occur, potentially providing significant opportunities for integration.

### **5.5.3 Common Transport Policy**

This sector took an important step beyond the existing 'end-of-pipe' solutions through a clear recognition in the Council of the breadth of environmental problems, and of the need to decouple transport growth from economic growth. However, the problems of CO<sub>2</sub> emissions and congestion, both on urban and interurban roads, remain unresolved. Air traffic continues to grow rapidly.

### **5.5.4 Internal Market**

The Commission's 1999 Communication on the Single Market and the Environment<sup>43</sup> acknowledged areas of tension between the functioning of the open market and some environmental policy objectives. The *Strategy for Integrating Environmental Protection and Sustainable Development into Internal Market Policy* (May 2001)<sup>44</sup> ranges widely but addresses only some of the key issues in relation to environmental integration.

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<sup>43</sup> Communication from the Commission to the European Parliament and the Council - Single Market and Environment. COM(99)263 final, 8 June 1999.

<sup>44</sup> Council of the European Union (Internal Market) 2001: Environmental Protection and Sustainable Development into Internal Market Policy / Report of the Internal Market - Consumer Affairs and Tourism Council to the Göteborg European Council, 18 May 2001 [8970/01].

### 5.5.5 Cohesion Policy

The European Commission's Second Report on Economic and Social Cohesion (2001)<sup>45</sup> has launched a debate on the future of the EU's Cohesion Policy in an enlarged Union after 2006.

Cohesion Policy is one of the most decentralised EU policies. This has resulted in a very variable local implementation of EU legal requirements regarding environmental integration, both between and even within Member States. In addition, in comparison with the Structural Funds, the Cohesion Fund incorporates far fewer environmental safeguards, and so the relative balance between the funds in the new Member States will be of crucial importance.

## 5.6 External Aspects and Enlargement

### 5.6.1 Enlargement

The EU is currently negotiating accession with ten Central and Eastern European Countries (CEECs)<sup>46</sup> plus Cyprus and Malta. In addition, Turkey has recently been given official status as a Candidate Country. While the accession of the small southern island states is unlikely to have major repercussions for EU environmental policy, and Turkey is unlikely to join in the near future, the potential impact of the accession of the CEECs poses both challenges and opportunities:

- The case for **sustainable development** is particularly persuasive in CEECs. Environmental quality is still characterised by a sharp contrast between heavily polluted environmental hot-spots and large, unspoilt areas. At the same time, these countries are in the midst of a process of restructuring. While restructuring may further reduce traditional industrial pollution, the transition to a market economy, the expansion of the service sector, changing investment, consumption, settlement and mobility patterns, and increasing integration into European and global markets threaten the preservation of the extensive natural reserves.
- In many CEECs environmental protection ranks low on the **political agenda**. Environmental concerns are only weakly rooted in party systems and civil society. With only a few exceptions, politically oriented environmental NGOs have few members. Other civic and business groups have rarely integrated environmental issues into their agendas.
- Decision-making is often highly bureaucratic. Administrative and technical **monitoring and enforcement capacities** at the regional and local levels are particularly weak. In addition, the approach to solving environmental problems tends to rely on available technical solutions rather than on promoting innovation and the mobilisation of societal resources.
- In the accession negotiations, the EU granted the Candidate Countries several long **transitional periods** for particularly heavy investment provisions of EU environmental legislation, in particular in the area of waste water treatment.

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<sup>45</sup> European Commission 2001: Enlarging Solidarity, Uniting Europe Second Report on Economic and Social Cohesion. Brussels: European Commission.

<sup>46</sup> Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia.

Given the lack of political will in most CEECs to pursue an active environmental policy combined with their limited resources and weak capacities, enlargement is likely to have a negative impact on the future **adoption of environmental legislation** that is not closely related to the Internal Market and is not directly associated with economic incentives for CEECs to support a high level of protection. Consequently, enlargement would significantly weaken the political influence of the Member States which have traditionally supported environmental protection. Further, it may increase the **implementation deficit** and reduce **decision-making efficiency** while increasing the potential for deadlock. Less or weaker Community legislation is likely to be agreed under these conditions.

### **5.6.2 External Aspects**

Following widespread concern that the Sustainable Development Strategy should also consider external aspects, the Commission presented a Communication entitled 'Towards a global partnership for sustainable development'.<sup>47</sup> The Communication was expected to clarify the complex interrelationship between the EU and the rest of the world, as well as to set priority objectives, targets, and concrete EU and international measures. The external SDS was thus not only intended to cover external aspects of sustainable development but also to prepare the EU for the World Summit on Sustainable Development. In the course of elaborating the EU external SDS the Commission was asked to cover the following three main areas:

- inequitable production and consumption patterns,
- reducing the external footprint, and
- providing international leadership.

However, the Communication only covers one of these issues, providing international leadership. The other two are largely neglected. The fact that the richest fifth of the world's population accounts for nearly 86 % of consumption calls for an urgent redistribution of resource consumption. Similarly, the EU's external footprint must be reduced. Currently the EU imports almost one third of the total resources it uses from outside the EU. This trend is aggravated by the fact that environmental damage in other parts of the world increases hand in hand with the EU's demand for a healthier environment. This is because the EU transfers its resource needs to other countries, mostly developing countries. Thus, the environmental costs of policy choices will increasingly fall on non-European countries. In the context of providing international leadership the Communication stresses the EU's positive contributions in this area. Moreover the EU has the chance to ensure that environment and sustainable development are made objectives of its external policies and relations and to use international relations as a means of generating a new global partnership for sustainable development.

The cross-cutting issues which are mentioned in the strategy are the following:

- coherence
- governance

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<sup>47</sup> Communication from the Commission: Towards a global partnership for sustainable development, COM(2002)82.

- financing for sustainable development

Though the strategy recognises the importance of improving **coherence**, in practice few new legislative proposals are included. Concerning **governance**, the Commission's White Paper is mentioned, but references to specific weaknesses relating to global EU sustainable development policies are missing. Regarding financing, the EU has recommitted itself to the UN conference of Monterrey in March 2002 to reach the Rio target of 0,7 % of GNP for financing development. Before Monterrey, the EU had introduced with the strategy a target of 0,33 % for all EU countries to be achieved by 2006. Now it has to be clarified which target the EU commits itself to.

Referring to the above paragraphs on enlargement, it is important to mention that enlargement is not covered in the strategy.

## 6 Basis for Better Environmental Governance

### 6.1 Enhancing Environmental Content in Processes with impact on EU Environmental Policy

#### 6.1.1 *Lisbon Process*

The environmental component of the Lisbon process can be strengthened through setting clear objectives and indicators against which environmental improvement can be measured. Also of importance are targets and timetables. Guidance on the environmental dimension needs to be provided by the Council (Environment), and the necessary support structures can be developed using existing committees in other policy areas as models. Some of the structural indicators currently proposed are of questionable relevance and the entire system of indicators should be further developed in accordance with the Council Conclusions of 5 December 2001<sup>48</sup>, which not only agree on a list of environment-related indicators to develop (Annex II of the Conclusions) and set priorities among them, but also draw up a timetable for their adoption and a methodology for improving what is bound to be an ongoing process.

Using the multilateral surveillance system for economic structural development as a model, a similar system should be considered, with priority also for environmental protection and resource conservation.

#### 6.1.2 *The White Paper on Governance: A Europe closer to its citizens*

Against the background of the discussions surrounding the Convention on the Future of Europe and the White Paper on Governance, several measures may contribute to increase the legitimacy of European environmental policy by improving the ability of citizens, civil society, and regional authorities to influence and participate in policy-making:

- Fast and comprehensive **implementation of the Aarhus Convention** on Access to Information, Public Participation in Decision-Making and Access to Justice in Environ-

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<sup>48</sup> Council of the European Union (Environment) 2002: Sustainable Development Strategy: Internal Dimension (contribution to the Barcelona European Council) - Council Conclusions, 5 March 2002 [6859/02].

mental Matters would confirm the leading role of environmental policy in enhancing the involvement of citizens and stakeholders. In addition to the Directive on Public Participation, this would require the adoption of legislation on access to justice and mandatory public participation in Strategic Environmental Impact Assessment, decisions on Genetically Modified Organisms, and Pollutant Release and Transfer Registers.

- Clear and transparent rules for **consultations of stakeholders** which go beyond the minimum standards of the Commission's Code of Conduct could be established. Consultations might be repeated not only throughout the legislative process but also during implementation and evaluation. Consultations must be transparent. The names of the participants and the outcomes of consultations could be made available to the interested public. It might also be helpful to systematically include environmental NGOs in **consultations on environmentally relevant sectoral policies**. Among other things, this could require improving the transparency of, and the information on, consultations.
- Environmental policy integration has so far been a process dominated by government officials and technical experts. To improve the involvement of the public, environmental and sectoral agencies could consult citizens and stakeholders on the formulation of objectives and the development of indicators. In addition, **integrated consultations** could be established which would be organised and held by sectoral and environmental agencies.
- To **improve the quality of consultations** and to strengthen their impact on decision-making, institutional capacities could be improved. This would require specifically qualified staff, training measures, and arrangements to identify and diffuse best practice. Services could be established to help participants prepare and actively participate in consultations. Constructive interaction with citizens and stakeholders also requires **effective communication** on the part of policy-makers. Capacities for communication might therefore be improved. To enhance the credibility of communication, such capacities could be closely linked to the decision-making process.
- The **financial means of environmental NGOs** also play an important role for participation. It should therefore be guaranteed that environmental NGOs are sufficiently funded. One initiative in this direction is the recently adopted (second) 'Action Programme promoting European environmental NGOs'<sup>49</sup>, which should be supplemented by national programmes.
- **Tripartite agreements** to be concluded between the European Commission, Member State governments and designated regional or local authorities offer ways in which the participation of the regional and local level in the implementation of EU environmental policy can be improved. A "template" for the first pilot projects is under preparation.

Steps to realise several of the measures listed above are contained in **DG Environment's Governance Action Plan**. For example, DG Environment intends to conclude pilot partnership agreements with several environmental NGOs in an effort to improve and intensify consultations. Similarly, pilot projects to prepare to conclusion of tripartite agreements and measures to support the implementation of the Aarhus Convention are planned.

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<sup>49</sup> European Parliament and European Council: Decision No. 466/2002/EC of 1 March 2002 laying down a Community action programme promoting non-governmental organisations primarily active in the field of environmental protection. Official Journal L 75, 16 March 2002, 1-6.

### 6.1.3 *The Convention on the Future of Europe*

#### 6.1.3.1 A better division and definition of competence in the European Union

In relation to clarifying, simplifying and adjusting the **division of competencies** between the Union and Member States, the Convention needs to take careful account of the needs of environmental policy, where competence is shared between all levels of government. In any event, approaches modelled on the voluntary, Open Method of Co-ordination make the issue of clarifying the demarcation of legal competence less pressing. The Convention should consider whether the OMC could be extended to further policy areas where Community competence is limited, but which are of key importance to sustainable development, such as transport.

The more centralised policies of the European Community, where Member States have less room for autonomous action, such as the Common Agricultural Policy or the Common Commercial Policy, tend to be the most detrimental to effective environmental protection. Community environmental policy is relatively decentralised (or 'federal'), leaving much responsibility to the Member States. This leaves the environment in a vulnerable position since European law breaks Member State law. In response to this untenable situation, the Convention should consider ways to **empower Member States, regional and local authorities to take their own measures necessary to protect the environment**.

#### 6.1.3.2 Simplification of the Union's instruments

The simplification of the Union's instruments might help to enhance transparency of EU environmental policy and thus is a means to address the problem area of legitimacy and participation, which is addressed in Chapter 6.1.2 of this study. The Convention should make sure that the simplification of the Union's instruments allows Member States to introduce stricter national standards while preventing them from the possibility of deciding on their own policy objectives that implicitly lower their environmental standards.

#### 6.1.3.3 More democracy, transparency and efficiency in the European Union

Environmental quality and the integrity of natural ecosystems are, or give rise to, common goods. In contrast, polluting activities and resource extraction are associated with the generation of private wealth for particular groups or individuals. With this in mind, the Convention might underline the importance of **transparency of decision-making** and participation by organisations defending public interests as well as effective action to combat corruption for ensuring that public interests are adequately protected.

On reforming the **role of the Presidency**, the Convention will consider whether individual Member States should no longer be able to chair every formation of the Council for a six month Presidency stint. Instead, there could be different national chairs for each specialist Council, elected by Council members themselves for periods of as long as 2.5 years. This would provide greater continuity in the work of each sectoral Council, ensuring that long-term priorities, such as environmental integration and sustainable development, can be developed progressively.

In relation to **reforming Council mechanisms**, the proposed different national chairs of specialist Councils could regularly come together as a new co-ordinating **Horizontal Affairs Council (HAC)** to review and help co-ordinate cross-sectoral work, such as taking forward

the EU's Sustainable Development Strategy and the Cardiff integration process. The HAC could also strengthen the Council's input into the Commission's Annual Synthesis Report to each Spring European Council, reviewing progress in relation to sustainable development.

The option of **reducing the number of separate formations** of the Council (cf. Section 4.5.2) could provide new opportunities for environmental integration – although careful thought would need to be given to whether, and which, sectors might be paired with the environment in one Council (transport, health, agriculture or energy?). In case the Environment Council is paired with another Council, it should be ensured that the institutional organisation of this merged Council retains a distinguishable and separate environmental policy identity. There also ought to be some coherent link between the future organisation of Council formations and the organisation of Ministries within the Member States.

Due to the unanimity requirement in several important environmental policy areas, such as environmental taxation, the existing decision making paralysis may even be aggravated with the rising number of Member States. Therefore, the Convention should consider introducing **qualified majority voting** for all environmental decisions.

Caused by the way decisions are made on the European level, impacts of policies, programmes, laws and regulatory action on the natural environment are often not sufficiently understood by decision-makers at the time when relevant decisions are made. Thorough **impact assessments** are thus needed and should be based on science and the pre-cautionary approach when addressing risk and uncertainty. Effective provisions should be foreseen by the Convention in the formulation of policies, legislation and subsequent action to ensure that the likely environmental impacts are fully known and understood before decisions are made.

#### 6.1.3.4 Towards a Constitution for European Citizens

During the preparations for the Nice-InterGovernmental Conference, an inclusion of the Charter of Fundamental Rights into the Treaty of the European Union was proposed. At the Nice Summit the Charter was solemnly adopted but not included in the Treaty. The Charter itself contains an environmental article (Article 37), which is not entirely satisfactory, because it is not phrased in terms of a right and therefore refuses to give the citizens a right to the protection of their natural environment, it only binds the institutions. Moreover, the Charter of Fundamental Rights is not legally binding. The Convention should therefore consider to include the Charter of Fundamental Rights into the awaited Constitution, which would give the environmental article more weight, and should strengthen the environmental article by formulating it in terms of a right.

#### **6.1.4 Enhanced Co-operation**

Given the tendency of European legislative processes to result in deadlock, Enhanced Co-operation offers a way of increasing decision-making efficiency and flexibility. It opens up new opportunities to adopt urgently needed environmental measures without considerably affecting the homogeneity of the *acquis communautaire* or causing permanent divisions among the Member States.

More specifically, there are several incentives for those Member States which do not initially take part in an Enhanced Co-operation to catch up at a later stage. Although these Member States may in some cases enjoy economic competitive advantages *vis-à-vis* the participants,

the reverse may frequently also be true. This may be the case if the members become technological and institutional pace-setters who have the opportunity to unilaterally determine the standards and procedures with which the non-members would have to comply once they decided to increase their level of environmental protection. Then the 'outs' would have little choice but to join the Enhanced Co-operation whose standards and procedures would already be firmly entrenched at the EU level.

In addition, the Commission has a strong interest in preventing permanently differing standards between groups of Member States and may therefore propose measures to assist the latecomers in catching up. Member States already participating in an Enhanced Co-operation may also have an interest in assisting the non-members to join, in particular if joining would contribute to the elimination of economic competitive advantages for the non-members. Finally, the potential members of an Enhanced Co-operation may use the option of establishing an Enhanced Co-operation merely as a threat to induce other Member States to agree to common higher standards.<sup>50</sup>

The fact that Enhanced Co-operation has not yet been used is partly due to political, legal and institutional uncertainties which should be removed. This could happen by:

- analysing, and drawing lessons from similar arrangements (e.g. the Schengen agreement or Monetary Union);
- testing Enhanced Co-operation by application in some cases with concurrent evaluation to learn lessons;
- clarifying relevant issues within the Inter-Governmental Conference 2004.

Ultimately, the question of whether or not the provisions on Enhanced Co-operation will be used is a political one. The implications of EU enlargement suggest that the political value of the instrument could increase significantly in the years ahead: First, it will be easier to muster eight Member States in support of an Enhanced Co-operation in a Union of up to 27 or 28 Member States than in a Union of 15. Second, as a result of lower decision-making efficiency and greater diversity in an enlarged Union, political pressure to overcome deadlock and engage in flexible mechanisms of integration is likely to increase. Currently, European measures concerning energy taxation and other environmental issues for which unanimous agreement among the Member States is required could be a potential case for Enhanced Co-operation.

## 6.2 Strengthening Overall Structures for EU Environmental Policy

In order to address the inability of current structures and procedures in the EU/EC to deal with crosscutting questions the following options should be considered. The Council (Environment) might consider establishing as soon as possible and as a *first step* a new, or strengthen an existing, working party to **provide continuous support** to the Council and each Presidency (focal point or secretariat). The purpose and function would be to assist the existing Working Party on the Environment by *inter alia* dealing with aspects related to the Open Method of Co-ordination in EU environmental policy. The new working party would also facilitate exchange of information, liaise with the European Environment Agency

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<sup>50</sup> I. von Homeyer, *EU Environmental Policy on the Eve of Enlargement*, EUI Working Papers RSC No. 2001/35 (Florence: European University Institute, 2001), pp. 22-23.

concerning monitoring and indicator work, submit factual reports on the state of environmental policy, and assist the Council (Environment) in developing annual conclusions.

The Council (Environment and General Affairs – horizontal and institutional issues) might also work along the same line and use similar structures **to ensure the integration** of environmental policy requirements into other policies (Article 6 of the EC Treaty). The purpose and function of the strengthened working party would be to monitor and stimulate environmental policy integration, provide for cross-sectoral information exchange and policy learning, establish minimum requirements and best practice (benchmarks), and establish triangular structures within the Council (Environment, General Affairs, sectoral Council) as appropriate.

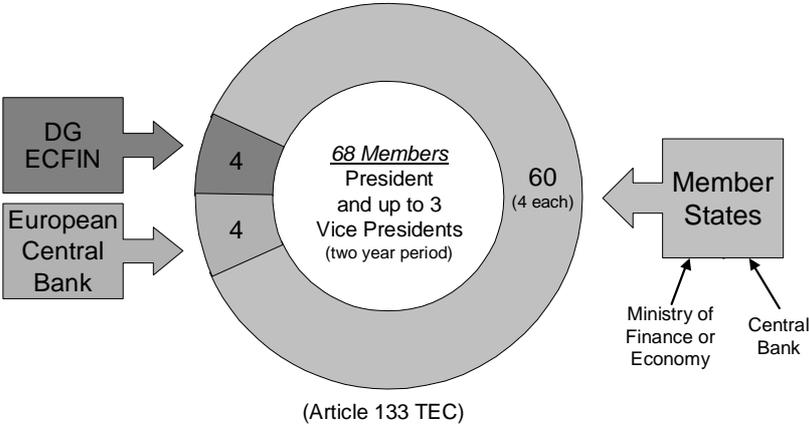
*As a second step* - which is urgent given the current gap in the institutional structures for the Open Method of Co-ordination and for providing input from all three dimensions into the EU SDS - the Member States might establish an **Environmental Policy Committee** along the lines of the Economic Policy, Employment and Social Protection Committees.<sup>51</sup> This would ensure regular, timely and high-level input into the strategic decision-making processes in Council (Environment and General Affairs) and European Council meetings. The purpose and function would be to provide information and guidance, and ensure co-ordination among Member States for a harmonised and high level of environmental protection. A formal legal basis for an Environmental Policy Committee should be established in the European treaties over time.

The legal basis of the **Economic Policy Committee (EPC)** is Article 99ff of the EC Treaty introduced by the Maastricht Treaty. It is supposed to guide policy to provide economic stability and growth. It drafts the Broad Economic Policy Guidelines (BEPG) to steer and harmonise economic policies between the Member States. Indicators are used in a formal surveillance of economic developments. In practice, the EPC formulates policy for the Council (Ecofin) and the European Council (spring meetings) and exercises significant powers of problem definition and agenda setting. The presidency of the EPC is disconnected from the Council presidency and changes every two years, providing for more continuity in its operation.

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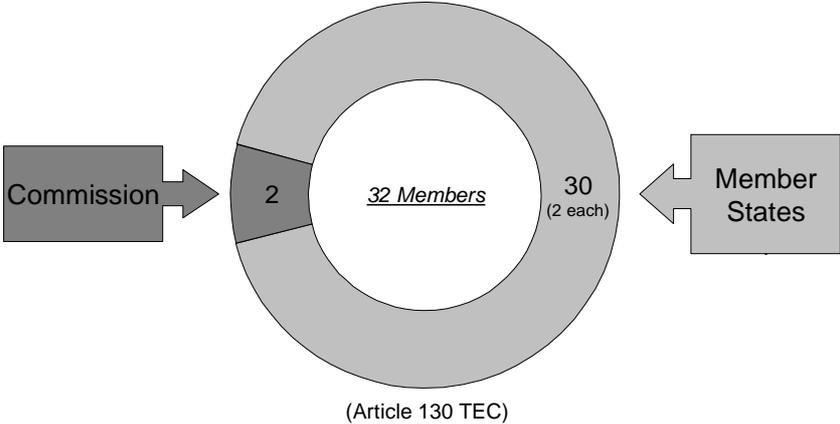
<sup>51</sup> Provided these committees are confirmed in their existence and mandate.

**Chart 8: The Economic Policy Committee**



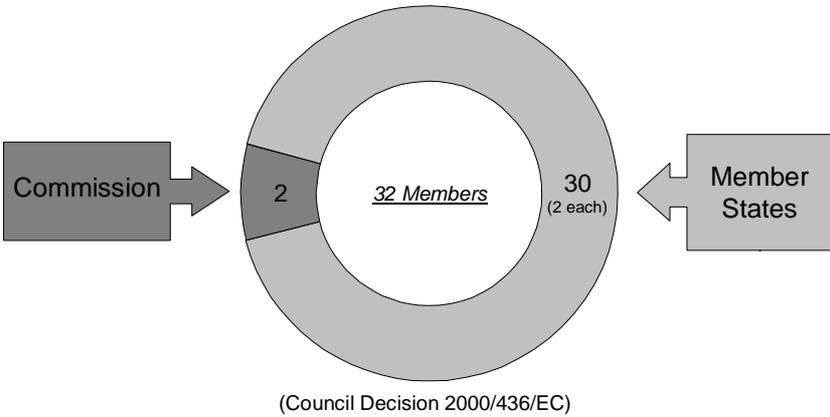
The **Employment Committee** is based on Article 130 of the EC Treaty. It has advisory status to promote co-ordination between Member States on employment and labour market policies. Special tasks include to monitor the employment situation and employment policies in the Member States and the Community and to formulate opinions and to contribute to the preparation of the Council proceedings.

**Chart 9: The Employment Committee**



The **Social Protection Committee** is the only of the three committees described here, which is not based on a Treaty provision. The Committee, which is based on a Council Decision of 29 June 2000 setting up a Social Protection Committee, should cover all forms of social protection and help the Member States to improve and strengthen their social protection systems. Before the Committee was established, an interim group of high-level officials had already started to work on the mentioned items. The tasks of the Committee are to monitor the development of social protection policies, to promote exchange and information and to prepare an annual report on social protection to be submitted to the Council.

**Chart 10: The Social Protection Committee**



There are a number of precedents for committees such as those mentioned above, notably the Article 133 Committee on the Common Commercial Policy and the Economic Policy Committee. Both of these have a foundation in primary law. However, precursor bodies might be established, pending Treaty changes. Other types of working groups or committees can be established by decision of the Council.

Another way of strengthening the overall structures of EU environmental policy would be to address structural problems of the European institutions. This possibility was identified by the Sustainable Development Strategy as a need and thus the Commission, Council and Parliament are asked to review their working methods (cf. Chapter 4.4). This proposal should build the basis for further action in this direction. When reviewing the working methods of the Commission, Council and Parliament, the co-ordination between the institutions should be considered.

**6.3 Ensuring Policy Coherence, and Consistency**

Establishing suitable support structures (cf. Chapter 6.2) would alleviate the problem of horizontal incoherence in EU environmental policy, especially if committee presidencies were to rotate every two or two-and-a-half years, rather than in accordance with Council Presidencies. The Economic Policy Committee could serve as a model in this respect. Such a Committee could also help to improve the interaction of the different actors, because it could serve as a focal point.

Building on the Belgian Presidency initiative to strengthen implementation and enhance the effectiveness of environmental policies, regular long-term reviews of salient items may be established with a view to facilitating cross-Presidency reflections and strategy development.

Refining and implementing the ‘Road Map’<sup>52</sup> of the General Affairs Council, initially developed under the Belgian Presidency in 2001, which stresses the need to combine the

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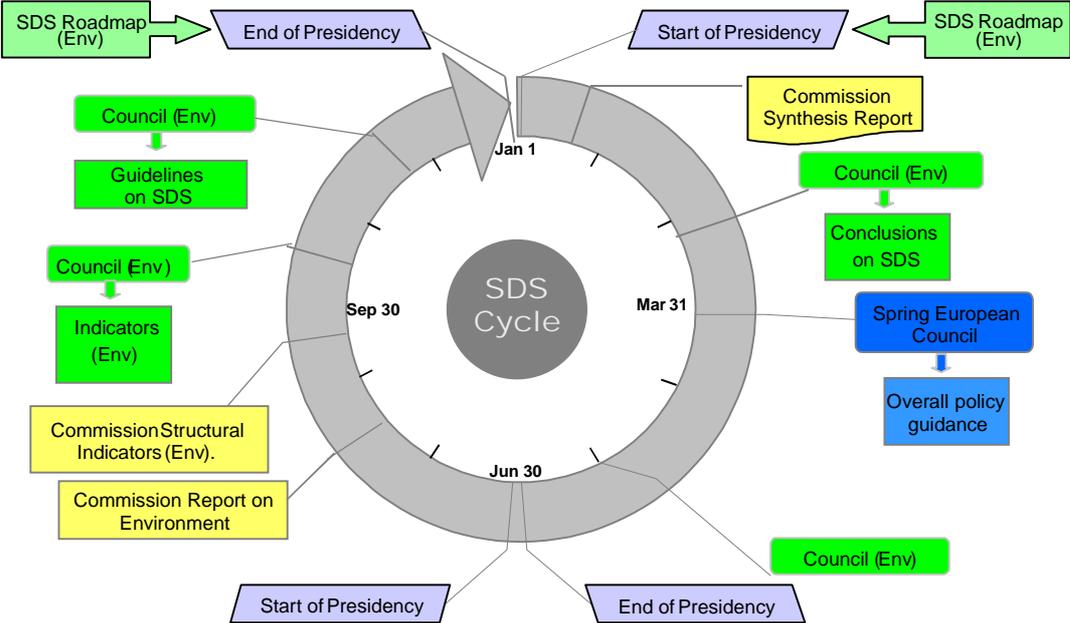
<sup>52</sup> Council of the European Union: Revised Note on a Road Map on the Follow-up to the Conclusions of the European Council on Göteborg on the EU Sustainable Development Strategy (SDS) - Distribution of Work within the Council, Timetable and Identification of Priorities, 7 March 2002 [6837/1/02]. It covers, at this stage, exclusively the environmental dimension of the SDS.

internal and the external dimensions of environment-related aspects of sustainable development, might also help to increase the coherence of environmental policy.

The lack of vertical coherence could be addressed by better involvement of national administrations into policy formulation at EU level. However, for the practical design of this proposal, negative impacts on the decision making process, such as time consuming consultations and negotiations, must be considered. Additionally, the capacity of Member States' environment ministries is a limiting factor.

Another possibility for increasing vertical coherence would be to streamline national and EU obligations with respect to the Sustainable Development Strategy and Environmental Integration Strategies.

**Chart 11: Annual Cycle for EU environmental and SDS policy**



**Table 7: Yearly timelines for EU environmental and SDS policy**

EXISTING YEARLY TIMELINES FOR EU ENVIRONMENTAL & SUSTAINABLE DEVELOPMENT STRATEGY POLICY				
	FIRST QUARTER	SECOND QUARTER	THIRD QUARTER	FOURTH QUARTER
	<i>Presidency X</i>	<i>Presidency X</i>	<i>Presidency Y</i>	<i>Presidency Y</i>
<b>Commission</b>	Annual Synthesis report Annual ENV report (2003)		<i>Structural indicators (ENV chapter)</i> <i>Two-yearly stakeholder forum to assess the SDS (2002)</i> <i>Complete review of SDS (beginning of each Cion mandate - next one in 2004)</i>	
<b>European Council</b>	Overall policy guidance Assessment of SD progress			
<b>Council (ENV)</b>	Conclusions on environmental dimension of SDS		Environment-related indicators for sustainable development (updating & priorities)	(event.) Conclusions on environmental dimension of SDS
<b>General Affairs Council</b>	SDS roadmap (Presidency) Preparation of Council Conclusions		SDS roadmap (Presidency)	

Note: some elements marked in italics are linked to the 2002 known timelines and might appear at another time of the year in subsequent years

## 6.4 Increasing the Effectiveness of Environmental Policy and its Implementation

The discussion on the **choice of instruments** covers two dimensions. The first dimension focuses on implications of the choice of instruments for the level of environmental protection. The second dimension relates to the impact of the choice of instruments on implementation. In order to avoid negative impacts on the harmonisation of EU environmental policy, the choice of instruments should be carefully considered and implications on harmonisation should be further elaborated. If it seems possible that particular **implementation problems** may result from the choice of instruments, the link between instruments and implementation should be further explored to verify whether this is actually the case.

**The European Environment Agency** plays an important role in strengthening the general effectiveness of EU environmental measures. The data, information and analysis supplied by the EEA should inform the development of new Community policies, and underpin the *ex post* evaluation and review of the impact of existing measures. Through EIONET, the Agency is in a position to provide information on the baseline situation, environmental trends and scenarios, and in some areas to develop models to enable the effects of particular policy options to be predicted. Through the development of appropriate evaluation methodologies and improved reporting mechanisms, the Agency also has an important role in assessing the effects and effectiveness of particular EU and Member State measures and instruments. In this way, examples of good practice can be identified and used as the basis for shared policy learning between the Member States and the Commission.

The development of a range of **indicators**<sup>53</sup> is essential to assess and report on progress in achieving environmental goals. In relation to specific environmental issues and/or media, indicators are required which focus on the state of the environment, driving forces and pressures. Assessing progress in relation to environmental integration across economic sectors requires the development of tailored sets of indicators, along the lines of TERM (Transport and Environment Reporting Mechanism). Similar work is being undertaken by the EEA in relation to other sectors such as agriculture, tourism and energy.

Efficient and effective **reporting systems** (See chart 12 below) are essential if the data and information required for policy development and evaluation is to be timely, reliable and comparable. The Agency should have a major role in designing reporting systems that make available the right kinds of information, in the right form, to those who need it. At the same time, there is a need to rationalise the wide range of overlapping reporting systems that currently exist in the EU. In addition to reporting requirements contained in individual items of EU environmental legislation, separate new reporting obligations have recently been - or are being - established in relation to the Cardiff sectoral integration strategies; the 6EAP Thematic Strategies; and the EU Sustainable Development Strategy. There is a need to streamline all these reporting requirements to forestall the onset of 'reporting fatigue'. One possibility could be the establishment by the Agency of 'ReportNet' - an electronic 'one-stop-shop' accessible to all.

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<sup>53</sup> Besides the environment-related indicators for sustainable development addressed by the December 2001 Council Conclusions, the 6EAP, Art. 10 (e), recognises three categories of indicators: headline environmental indicators, indicators on the state and trends of the environment, and integration indicators.

In relation to the proposed annual report by the Commission reviewing progress on the environmental goals of the SDS, the required data and analysis should be provided by the EEA. Already, the Agency produces the *Environmental Signals* reports each year, and these could form the basis for the Council's report. In order to play this key role, the timing of *Environmental Signals* has been brought forward to earlier in the year.

**Chart 12: Overview on EC legislation requiring reporting**

## The supply side – status

**Percentage of items of EC legislation requiring reporting on measures and their effects and effectiveness**

No descriptions of measures required nor evaluations of these measures	50 %
Descriptions of measures required	38 %
Evaluations of the effects or effectiveness required	12 %

**Source:** European Environment Agency, March 2002

In order to address the problem of **non-compliance** by the individual regions of federal states, **Tripartite Contracts** should be considered as a useful tool. Such contracts, which were suggested by the White Paper on Governance, should be concluded among Member States, designated regions or local authorities, and the Commission. This implies that the central state still remains the responsible body for implementation but the designated sub-national authority is bound by the contract to implement the identified actions. This approach should be directed to Directives or Regulations where sub-national authorities are responsible for implementation within the national system.

This kind of contract has not been established yet, but would help to overcome the implementation gap in federations where legislation is directed to the central state, but the sub-national level is responsible for its implementation. Pilot contracts<sup>54</sup> should, therefore, be concluded in order to assess the impact of this approach on the implementation of European

<sup>54</sup> Preliminary work is ongoing to develop a template and launch the first pilot contracts.

environmental policy on the sub-national level. If this approach proves useful, its further use should be considered. The legal possibilities and limitations that may exist in Community law and Member State law would need to be explored.

Making the implementation of legislation subject to contractual negotiations might erode the harmonised high level of environmental protection. Reaching consensus on legislation in Council may also become more difficult when some Member States seek a negotiated outcome with a promise of European funds to pay for the implementation of legislation. Care needs to be taken to avoid these risks, and safeguards need to be established so that tripartite contracts cannot be used to lower the level of protection. A useful rule of thumb might be that regions or local authorities may benefit from EC support only if they go beyond EC standards or best practice established in reference notes.

## **6.5 Enhancing Environmental Policy Integration (EPI) in the Sectors**

Most importantly, the European Council should highlight the importance of sustained action for the full implementation of Article 6 of the EC Treaty, which requires the needs of environmental protection to be integrated into both the definition and implementation of all Community policies and activities. On the basis of guidance from the Council (Environment), the European Council should also give **guidance on the structure and content** of the Cardiff EPI Strategies and establish minimum requirements for implementation and follow-up. Further points are contained in the following sub-sections.

### **6.5.1 What can be Done in the Sectors?**

#### 6.5.1.1 Energy Policy and Climate

Criteria for more sustainable energy use should be developed within the strategy, incorporating the overall objectives and concrete targets from the Sustainable Development Strategy. Where necessary, additional policy actions/instruments should be applied. This should include not only conventional Directives, but the full range of available instruments (including funding, energy taxation, emissions trading, voluntary agreements). Currently the energy Council meets only for half a day per Presidency. Either more regular meetings, or some other integrative arrangements (e.g. a Joint Expert Group) are needed to deliver sustainable energy systems.

#### 6.5.1.2 Common Agriculture Policy

The Agriculture Council's integration strategy points out the opportunities arising under the current Agenda 2000 framework. These need to be utilised by the Member States more vigorously than hitherto. The mechanisms for establishing appropriate environmental standards for production systems benefiting from direct payments under the CAP through Article 3 of the Common Rules Regulation need to be applied effectively. There are also opportunities for increasing funding for agri-environment and other second pillar measures through the use of modulation, but relatively few Member States have committed themselves to this route.

Production-related support within the CAP could be examined more stringently to ensure that measures which give rise to environmental damage are modified or eliminated in the course of the coming reform. Greater support for sustainable production methods and the protection

of biodiversity underline the importance of strengthening the second pillar of the CAP, with due regard to environmental policy priorities. Transferring funding from the first to the second pillar is regarded by many as an essential foundation for a more sustainable agricultural policy.

#### 6.5.1.3 Transport Policy

Measures suggested by the Commission under the review of the Common Transport Policy rely heavily on achieving modal shift, but Member States now need to respond more positively to the application of demand management measures across the Community, e.g. through road pricing and the full range of policy instruments. There also needs to be a clearer vision of how the multiple actors in the transport sector (at local, national and continental levels) can work together to achieve sustainability. Land use/spatial planning policy has in general not yet been harnessed to help address transport problems. The Joint Expert Group should consider how progress could be made on these points in its future work programme.

#### 6.5.1.4 Internal Market

There is a need to clarify the circumstances in Article 95 of the EC Treaty in which a Member State may introduce its own national measures for protecting the environment, despite the existence of a Community harmonisation measure.

More needs to be done in relation to 'getting the prices right'. Criteria and timetables should be set for phasing out all environmentally-harmful state aids in the Member States. Environmental taxes and charges should play a greater role in environmental governance at all levels of government.

Work on the Community's Integrated Product Policy (IPP) should be accelerated. Business and consumer leadership should be encouraged to produce and consume greener products, in particular through eco-design guidelines, greater environmental input into product standards, and clear guidelines to public authorities on integrating environmental considerations into public procurement decisions. Information and awareness campaigns should be used to stimulate consumer demand for eco-labelled products.

#### 6.5.1.5 Cohesion Policy

There is a need for greater environmental input at Council level into the EU's cohesion policy. A review once every seven years by the General Affairs Council of the Structural and Cohesion Fund Regulations is clearly not sufficient to ensure that in practice cohesion policy is used to advance and not compromise environmental protection in the Member States. In the context of the current debate on the reform of the Council, it is probably unrealistic to expect that a new, formal Council formation might be established to cover cohesion matters. Nevertheless, it is important that *some* formation of the Council - possibly a new Horizontal Affairs Council - should regularly review how the Structural and Cohesion Funds are being used in the Member States, and issue guidance on good practice. This will become increasingly necessary in the next programming period (from 2007) when the Structural and Cohesion Funds are expected to focus on providing greater 'value-added' at Community level, rather than simply providing support for existing national development priorities. The

implementation of the SEA Directive<sup>55</sup> in 2004 is to be broadened in order to, for instance, include environmental considerations in the structural funds.

Issues to be addressed at Council level would include :

- developing mechanisms for integrating environmental concerns into programme management;
- 'greening' project appraisal and selection criteria;
- improving the environmental appraisal of Cohesion fund projects;
- extending the involvement of environmental authorities in developing Cohesion Fund priorities;
- making use of opportunities for increasing rates of assistance from the Structural Funds for projects delivering positive environmental benefits.

More fundamentally, a 'new' model of regional sustainable development is needed, a model that should extend the traditional focus of regional development on the accumulation of manufactured capital to include the development of human, social and natural capital as well.

### **6.5.2 What can be Done with Instruments and Cross-Cutting Issues**

The awareness of environmental problems and protection requirements is acknowledged in the policy integration processes for transport, agriculture, and energy. Nevertheless, the description of specific integration requirements remains to be completed.

**Objectives** and (more concrete) **targets** should be developed on the basis of previous **analysis of problems**. However, with the exception of the strategy of the Transport Council, none of the remaining areas managed to develop consistent approaches. Overall, the setting of objectives and targets in all three areas is unsatisfactory in the sense that no precise, quantified targets connected to dates or deadlines have been laid down. The experience in the transport policy sector argues strongly for **strengthening the role of the European Environment Agency**.

Plans for future activities and measures and the allocation of responsibilities to the various actors are key elements of every strategy, since it could otherwise not be implemented. The comparative assessment of the strategies demonstrates that the measures, particularly in the transport and energy sectors, correspond in detail to the environmental problems identified and the general objectives set. In the agricultural strategy, the measures are partly consistent with environmental problems and objectives.

Any strategy aiming at a continuous improvement of procedures, goal definition and goal attainment needs indicators for measuring the problem to be solved and the degree to which solutions are successful. Otherwise it would be impossible to verify strategy success or to adapt strategies to changing needs and priorities. Within the scope of the study, only the Transport Council has developed specific indicators for the integration of environmental protection requirements. On the whole, the development of suitable indicators with clear links and relevance to political objectives and the incorporation of existing and future indicator systems into the strategies is still insufficient.

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<sup>55</sup> Directive 2001/42 on Strategic Environmental Assessment

Fixing of time frames for measures to be undertaken is a necessary part of any strategy implementation process. Without enforceable time frames and deadlines, controlling the functioning of a strategy would be impossible, as would its adaptation to changing circumstances. Overall, this area is under-developed in all three areas. As a rule, measures are identified without connection to a (future) date.

Nature conservation and the protection of biological diversity are important issues which have so far not been considered in the Cardiff EPI Process. A new impetus is needed from the European Council, requiring all relevant Council configurations to consider both of these issues when updating and revising their Cardiff Strategies.

The 'Research' Council of Ministers was not one of the nine formations of the Council included in the 'Cardiff' process. Nevertheless, steps have been taken, particularly in the Commission's proposals for the 6RFP, to reflect the priorities of the EU Sustainable Development Strategy and the Sixth Environmental Action Programme into priority research themes.

### **6.5.3 *What can be Done in the Member States?***

Within the framework of the Cardiff process, an initiative should be taken to promote the implementation of the various sectoral Cardiff strategies in the Member States and for the development of national processes for environmental integration. The objectives, among others, would be to establish national processes mirroring the Cardiff process to

- build a harmonised reporting mechanism and other instruments for information exchange,
- facilitate comparative assessments (peer reviews) and, on that basis,
- promote a process of trans-national policy learning and the development of networks of experts.

Further aims should be to create a continuous and stable process at the European level and thereby stabilise environmental integration policies in the Member States and other countries.

## **6.6 External Aspects and Enlargement**

### **6.6.1 *Enlargement***

Environmental conditions and the process of restructuring in CEECs add up to a particularly strong case for substantially increased efforts to promote sustainable development in these countries. At the same time, enlargement threatens to undermine the EU's will to pursue an active environmental policy, it may increase the implementation deficit, and reduce decision-making efficiency. Possible options to counter these effects include:

- funding of infrastructural environmental investments and administrative and technical capacity building in CEECs beyond the date of accession, e.g. when the ISPA and Phare Programmes will be replaced by the Cohesion and Structural Funds;
- increasing the use of flexible instruments, such as framework directives, procedural regulations, and economic incentives, which are capable of accommodating the increasing diversity of environmental conditions, priorities, and implementation capacities in an

enlarged EU, while keeping in mind the special conditions in CEECs with respect to administrative capacities and civil society;

- in situations of deadlock in which no agreement on important environmental legislation seems possible, considering the use of the new provisions on Enhanced Co-operation;
- given the exceptionally large potential benefits of a shift to sustainable development in CEECs, there is an urgent need to intensify efforts to promote policy integration and the Open Method of Co-ordination in environmental matters at the EU level - both of which should be firmly established before enlargement takes place.

### **6.6.2 External Aspects**

The problem of inequitable production and consumption patterns can only be solved by efficiency gains and lifestyle changes. To these ends, the EU should set a goal which aims to achieve an equitable share of natural capital among the European population with specified and measurable targets.

Action for reducing the EU's external footprint should include a target of reduction of the ecological footprint in a global context.

International leadership should be achieved by pushing for new global approaches and solutions to problems, which support and strengthen global environmental policy and address the driving forces behind global environmental degradation.

In order to increase coherence, it should be ensured that the forthcoming reforms of the Common Fisheries Policy and the Common Agricultural Policy take into account the external impact of these policies on sustainable resource use.

With respect to governance the EU should make sure that rules for access to information, public participation and access to justice comply with existing international rules in this area. Additionally, the Common Commercial Policy is in need of reform. Decision-making procedures should be revised by developing a more effective system of consultations with other Council formations.

In the area of financing sustainable development, the EU should take further action in order to achieve its commitment to spend 0,7% of its GDP on development aid.

Enlargement, as one of the central challenges for the further development of the EU, should be considered by the external SDS.

## **6.7 Sustainability Impact Assessment**

The following section deals with the concept of Sustainability Impact Assessment (SIA) and proposals for its practical design.

The June 2001 Göteborg European Council called for 'mechanisms to ensure that all major policy proposals include a sustainability impact assessment (SIA) covering their potential economic, social and environmental consequences'. A system of SIA is currently being developed by the Commission's Secretariat-General, and will be presented as part of an *Action Plan for Better Regulation* at the Sevilla European Council in June 2002.

The commitment to SIA for Commission proposals is to be welcomed, although its effectiveness will depend on several factors discussed below. SIA has become increasingly

necessary as Community interventions have become ever more complex. Treaty commitments now demand the integration of a number of separate considerations (not only environmental) into all EU policies, and EU involvement is increasing in a number of cross-sectoral issues such as climate change. SIAs can help identify unintended negative side effects of proposed policies, synergies ('win-win-win') and avoid the need for future expenditure.

### **6.7.1 Incorporation of SIA within an integrated EU impact assessment system**

There are currently several separate impact assessment procedures in place in the Commission, including business impact assessment, regulatory impact assessment and *ex ante* environmental appraisals. It is proposed that these - together with SIA - should be amalgamated into a single, integrated policy impact assessment procedure, which should be in place in the Commission by the end of 2002. While such a streamlined approach is probably essential to offset 'assessment fatigue', it is important that the primary focus on sustainable development - and specifically on environmental sustainability - is not lost. SIA differs significantly from regulatory or business impact assessments and therefore clear guidelines should be developed spelling out its minimum essential characteristics.

Specifically in relation to the assessment of possible *environmental* impacts, the 6EAP now places a legal obligation on the Commission to give 'consideration, prior to their adoption, of whether actions in the economic and social fields contribute to and are coherent with the objectives, targets and time frame of the Programme'. This suggests the need to set minimum environmental requirements within an integrated impact assessment system, and an 'objectives-led' approach reflecting the priorities set by the 6EAP Thematic Strategies.

### **6.7.2 The principle of introducing SIA at EU level**

The specific nature of the EU as a political system raises several issues about horizontal and vertical co-ordination and consultation within an SIA system.

The focus of SIAs cannot remain exclusively at a *European* level, since sustainability conditions and impacts are highly site-specific. An SIA of a proposed EU measure needs to take account of its differential impact in different Member States. More work needs to be done on how Member States can be linked into a Commission SIA system, particularly regarding the provision of information and data. This should include addressing the implications for the implementation of the Strategic Environmental Assessment (SEA) Directive within Member States

It is equally important that a system of SIA is 'owned' by all EU institutions, since Council and Parliamentary amendments can negate many of the assumptions of the Commission's initial SIA. The existing inter-institutional agreement supporting the introduction of 'activity-based management' within the Commission should be extended to cover collaboration of SIAs. Member States and Members of European Parliament (MEPs) should agree to undertake SIAs of their major amendments to Commission proposals.

### **6.7.3 SIAs in practice**

An effective SIA system will require political support at a high level. The absence of such political authority has contributed to the weakness of existing impact assessment systems in the Commission. An explicit statement of endorsement should be made by the European

Council. Moreover, SIA should be formally incorporated into the system of activity-based management within the Commission.

SIAs should be undertaken by the Commission Directorate-General responsible for developing the proposal into a new measure. However, a central, integrated impact assessment office should be established within the Commission Secretariat-General. Its role would be to provide advice, guidance and training, and to monitor the quality of impact assessments. Methodological and procedural guidelines should be mandatory rather than discretionary, along the lines of Commission guidelines currently being developed in relation to *ex post* evaluations.

An SIA should take place as early as possible in the policy formulation process and be iterative. Wide stakeholder consultation is essential to identify impacts and their distribution, and to secure stakeholder support and involvement in policy implementation. More work needs to be undertaken to identify ways of involving stakeholders, notably in an enlarged Union of 27+ Member States.

SIAs will not be effective without the provision of adequate resources for training, guidance, consultation etc. There is an urgent need to clarify whether an explicit legal instrument on impact assessment is required to enable these resources to be allocated.

## 7 Conclusions and Recommendations

### 7.1 Overall Objectives and Policy Approaches

At this time of impending constitutional change in the European Union, it should be noted that the **Charter of Fundamental Rights**, which is not a binding legal document, contains an environmental article that is not satisfactory. It does not give citizens a right to the protection of their natural environment, and it only binds the institutions. The Convention on the Future of Europe should, in consequence, consider making the Charter part of EU primary law, and reinforcing the right to environmental protection by the right to a safe environment.

The European Commission and Council should establish **clear and transparent rules for consultations of stakeholders** at all levels, covering the legislative process as well as implementation and evaluation. Consultations must be transparent and organised. The names of the participants and the outcomes of consultations could be made available to the interested public. It would be helpful to include environmental NGOs in all consultations on relevant sectoral policies. And the Convention might consider the opportunity to reshape ECOSOC's composition and mandate in order to include the missing environmental dimension.

In its **Action Plan for Better Regulation**, the European Commission should also consider and make recommendations to the Council as well as to the Convention on the Future of Europe concerning which aspects of the Open Method of Co-ordination (OMC) should be applied to environmental policy. Options would be: guidelines to Member States, peer reviews, institutional indicators, involvement of national administrations in policy formulation at European level (vertical coherence), and so on.

The main driver for macroeconomic and structural policies in the European Union is now the Lisbon Process, focussing primarily on economic and, to a lesser degree, social issues. The

whole process, even though the Göteborg European Council has added an environmental component to it, is still unbalanced in its vision and provisions. The Lisbon Process needs a strategic goal that includes the environment and the European Council should call for the **European Union to "become a highly eco-efficient economy and use energy and natural resources in a way that respects the carrying capacity of the environment [...]"**<sup>56</sup>.

The environmental dimension in the Lisbon Process should also be given weight as it is to the economic and social dimensions. This should be reflected in the institutional structures underpinning the process, in substantial improvements to the environmental component in the Commission synthesis report and in the number and weighting of environment-related indicators in the structural indicators list, with priority – for further work – to indicators on biological diversity, water and chemicals (on top of the current priorities, i.e.: climate change, transport/energy).

## **7.2 Institutional Structures, and Innovative Procedures**

The demands on EU environmental governance have grown considerably over the past few years. Notably, there is now a need to establish a committee mirroring the competencies of the **Economic Policy Committee**, for instance, to give the environmental component of sustainable development a voice with adequate weight. Similarly, the complexity and momentum behind environmental policy integration (EPI) and the Cardiff EPI Process, as well as the evaluations of these processes so far, strongly suggest that an institution is now needed to combine expertise and provide guidance on the implementation of **Article 6 of the EC Treaty**. As a first step and as an intermediate measure, the Environment Council working party should be reinforced. More importantly, however, the European Council meeting in Sevilla in June 2002, or as soon as possible thereafter, should consider the creation of one or more permanent high-level advisory committees, such as:

- **an Article 6 Committee** for environmental policy integration,
- an Environmental Policy Committee, as above,
- **a Sustainable Development Policy Committee (coherence & co-ordination of the three dimensions of SD).**

There are a number of advantages in such committees, used for instance in connection with the **Open Method of Co-ordination**. To these advantages belong the two-year rotating chairmanships which provide continuity, an effect urgently needed in the development and implementation of strategies. Various options are now under consideration in COREPER and the discussions should be brought to a speedy conclusion.

In this context, the Convention on the Future of Europe should consider the challenge of matching or **better co-ordinating the competencies** of Council configurations, Commission and Parliament services and the ministerial structures in the Member States. Key parts of the Open Method of Co-ordination are formalised annual environmental performance reporting to the European Commission or, through an Environmental Policy Committee, to

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<sup>56</sup> Conclusions of the Council (Environment) of 4 March 2002, No. 12. The current wording in No. 5 of the Conclusions of the Lisbon European Council reads: "to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion".

the Council (Environment), and the adoption by the Council of reports and guidance to the European Council.

The Council should continue to hold meetings in its environment configuration, as there are a large number of items to consider as part of the Community environmental policy; in case it is paired with other Council configurations – such as health, agriculture, transport or energy, it is vital that the Environment Council retains its own identity. In addition, the Council (Environment) should study the options for, and then establish **monitoring and assessment routines** to observe results stemming from the Conclusions of the Council (Environment)<sup>57</sup>. It should also review mechanisms to assess the follow-up to policy initiatives, in particular the implementation of the Cardiff EPI Strategies (see suggestion for an Article 6 Committee above). The Sevilla European Council should decide on “back-to-back” meetings to cover the SDS themes.

The current discussions on Council reform might eventually lead to the conclusion that the **General Affairs Council** (GAC) should be splitted in two, the first part (Horizontal Affairs Council, HAC) with a focus on cross-cutting and institutional issues, the second part dealing with External relations. This HAC should have the authority to undertake, at Council level, detailed reviews, co-ordinate, and draft guidance on sectoral environmental integration strategies and priorities for sustainable development. The **Road map** of the General Affairs Council, limited up to now to the environment-related aspects of the SDS, should be extended to the economic and social aspects. With such horizontal support structure in place, the **agendas of the European Council** meetings may be simplified. However, this simplification should not be allowed to reduce the political authority attached to the EU Sustainable Development Strategy and the Cardiff Process for Environmental Policy Integration.

The European Commission, the Council and the Parliament should acknowledge and strengthen the role of the **European Environment Agency** (EEA) in evaluating the effectiveness of environmental policies, approaches and instruments at European and Member State levels. The EEA should act as the **focal point** for shared policy learning to improve the environmental performance in the Member States and at Community level, as well as in other EEA member countries. In this context, national and European reporting obligations relating to environmental policy integration and sustainable development should be streamlined. Penalties for non-compliance with information disclosure or reporting requirements should be systematically considered.

### **7.3 Policy Instruments: Diversity and Appropriate Combinations; Policy Dimensions**

After enlargement, a weaker environmental policy is likely because of the more cumbersome process of policy definition where a wider range of arguments would need to be considered:

- bio-regional conditions with a greater diversity among the Member States,
- levels of administrative capacities and differences in administrative structures,
- traditions of civic involvement and cultures of state behaviour towards citizens,
- different levels of pre-existing contamination and continued pollution,
- capacities for coping with environmental degradation and its consequences.

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<sup>57</sup> Notably of 12 December 2001 and 4 March 2002.

In addition, implementation deficits are likely to increase. The Open Method of Co-ordination and environmental conditionalities attached to **financial transfers** to new Member States may be important parts of strategies for mitigating these problems. In such circumstances, the range and combinations of policy instruments must be widened, and legislative and political pressures must be applied for ensuring a high level of environmental protection. Where not all (current and future) Member States can or are willing to participate in specific policies or measures, the possibility exists to establish an **Enhanced Co-operation** within the framework of the European Treaties and institutions. The European Council should invite the Council and the Member States to try this instrument and evaluate its suitability for extended application.

In the near future, the adoption of environmental legislation, unless directly associated with the internal market or accompanied by financial inducements, is likely to be severely hampered as a consequence of enlargement of the European Union.

Much initial analysis is still needed before a coherent set of targets can be formulated for the external dimension of EU environmental policy and sustainable development. On the basis of the Conclusions of the Council (Environment) of 12 December 2001 and 4 March 2002, the European Council should invite the Council to **develop the inter-linkages between the internal, external & global dimensions** of Community policy on sustainable development.

At the same time, the Convention on the Future of Europe should consider ways to revitalise and strengthen the **Community Method** (CM), reduce the implementation deficit, and obtain synergies by applying the CM and the OMC in combination. This matter is particularly urgent in the field of environment, where the CM has resulted in notable successes but where a structure for OMC is now needed for institutional coherence with the other dimensions of sustainable development. The Convention should also consider **Treaty changes** establishing OMC structures in environmental policy.

In June 2001, the European Council meeting in Göteborg called for 'mechanisms to ensure that all major policy proposals include a **Sustainability Impact Assessment** (SIA) covering their potential economic, social and environmental consequences'. The matter is now considered by the Commission's Secretariat-General as part of an "Action Plan for Better Regulation" prepared for the Sevilla European Council meeting in June 2002. Given the nature of issues under consideration by the Convention on the Future of Europe, SIAs should be undertaken of its major proposals with the potential to affect the environment. The 6<sup>th</sup> Environmental Action Programme requires the European Commission to consider, prior to their adoption, whether actions in the economic and social fields contribute to and are coherent with European environmental policy.

Clear guidance should be developed, establishing good practice and minimum essential characteristics for SIAs and environmental impact assessments. The introduction of SIAs as part of a wider, integrated impact assessment system should not be allowed to dilute consideration of essential environmental issues. SIA systems need significant resources and high-level political support to retain credibility.

One possible solution to the challenge of building political commitment and establishing concrete plans for action may be found in **Tripartite Agreements** for environmental protection between Commission, Member States and regional or local authorities. Such agreements should be tried and implemented with safeguards to avoid the risk of eroding harmonised and high levels of protection. Adopting and enforcing the right combination or

**'mix' of instruments, both legislative and non legislative**, is of paramount importance for successful environmental protection and environmental policy integration. The European Commission should explore the scope for synergies among instruments.

#### **7.4 Environmental Policy Integration, the main Sectors & Cross-Cutting Issues**

The process of environmental policy integration (EPI) is aimed at ensuring that the needs of the environment are considered, respected, and preferably advanced in the process of choosing policy options and implementation for sectoral policies that have potentially significant impact on the environment. Without action, there is little chance to overcome the apparent inability or unwillingness of some Council configurations to recognise and sufficiently address the full range of negative environmental consequences of their policies and decisions.

Integrating environmental protection requirements into the **Common Agricultural Policy** (CAP) remains limited to implementing Agenda 2000 and no substantial discussion on improving EU governance has taken place in this field. However, during 2001, a new agenda emerged in the EU Sustainable Development Strategy with an emphasis on 'encouraging healthy, high quality products, environmentally sustainable production methods, including organic production, renewable raw materials and the protection of bio-diversity'. These environmental issues are now taken up by Member States in preparation of the mid-term review of the CAP beginning in the summer of 2002, with a view of an ambitious reform of the CAP to be adopted in 2006. Much could be gained in the short term by Member States using the opportunities for increasing funding for agri-environment and other second-pillar measures through the use of modulation.

The integration of environmental policy requirements into **Energy Policy** in the context of **climate change** started early, led to the development and progressive adoption of a range of measures and instruments, and is now ahead of other sectors. Shortcomings persist, however, in view of meeting the targets established by the Kyoto Protocol, the main driver of climate change policy. The focus of European energy policy now needs to shift towards sustainable energy use and apply the full range of instruments (including taxation, targeted subsidies, emissions trading, voluntary agreements) and the role of the Council in its Energy configuration, which only meets every six months, should be strengthened.

Taking account of environmental concerns relating to **Transport and Mobility** also started early and the sector is now remarkable for its integration of transport and environment experts and officials working on indicators and policy formulation. This moved transport policy beyond traditional "end-of-pipe" solutions to recognise the need to decouple transport growth from economic growth. However, problems of CO<sub>2</sub>-emissions and congestion, and growth in traffic, including air transport, persist. Solutions are likely to be achieved through demand management and applying the full range of policy instruments. Progress in the sector will also depend on the co-ordination of different scales of land use or spatial planning with the transport infrastructure development, with a view to implementing the White Paper 'Transport Horizon 2010'.

Understanding of the environmental impacts of the **Internal Market** and trade liberalisation is still limited, and the formulation of effective policy responses in the sector is lacking and no quantified targets, timetables or indicators have been developed. There is a need now to

clarify the circumstances in Article 95 of the EC Treaty. An amendment should allow a Member State to adopt measures for environmental protection in the presence of a Community harmonising measure, and empower Member States, regional and local authorities to take any action that is needed to protect the environment or natural resources. The purpose of the internal market would be served well by phasing out environmentally-harmful state aid in the Member States, and by using taxes and charges for internalising environmental and resource costs at all levels of governance. With a view to strengthening the environmental component of the Internal Market strategy rolling programme, the process of adopting a Community Integrated Product Policy (IPP) should be accelerated to promote changes in production and consumption, supported by eco-labelling, use of standardisation, and the new rules for green procurement.

**Cohesion Policy** is a decentralised Community policy with only limited guidance from the General Affairs Council. Provisions for integrating environmental concerns exist with respect to the Structural Funds but are lacking in relation to the Cohesion Funds. Even with the environmental provisions, the Structural Funds demonstrate the conflict between two sets of governance principles, decentralisation and participation, versus better co-ordination and coherence. Extending the Cohesion Policy to new Member States after enlargement in the next programming period after 2007 should be preceded by a reform of objectives and procedures. Also, the Council – meeting in its General Affairs configuration or a future Horizontal Affairs Council (HAC) – should regularly review the use of Structural and Cohesion funds and issue guidance on good practice.

In order to improve the overall quality of environmental policy integration not only the sectors should be addressed, but also **horizontal and institutional issues**.

The development of effective environmental policy integration strategies is still deficient at Community level:

- **Appreciation of the environmental impacts** of sectoral policies is only relatively advanced in agriculture, energy and transport. Besides, all the SEA Directive requirements should be fully addressed by Member States.
- The lack of systematic analysis of environmental impacts leads to **inadequate formulation of EPI objectives** and (more concrete) targets. A consistent approach has been developed chiefly in transport policy, with a strong role for the European Environment Agency.
- The **consistency of planned measures** with EPI objectives is reasonable only in relation to energy and transport policies, and to a much lesser extent in agriculture.
- **Indicators and time frames**, and regular **monitoring and review mechanisms**, are essential for strategy implementation and follow-up. Again, only the Transport Council has adopted suitable indicators with clear links and relevance to policy objectives, but still without enforceable deadlines.
- Consideration for **nature conservation** and **bio-diversity** is inadequate in all sectors, and the European Council meeting in Barcelona has highlighted the renewed importance of both issues. This was backed by the Commission Communication on the European Union Sustainable Development Strategy, which calls for establishing a system of indicators by 2003 and by a set of Council Conclusions. The European Council should now specifically ask all relevant Councils configurations to consider

nature conservation and bio-diversity in **updating and revising their Cardiff EPI Strategies**.

- **Lack of concrete actions and comprehensive strategies** in all policy sectors.

Consequently, the European Council should highlight the importance of sustained action for the **full implementation of Article 6 of the EC Treaty**, which stipulates that 'environmental protection requirements must be integrated into the definition and implementation of all Community policies and activities'. The European Council should provide guidance on the structure and content of Cardiff EPI Strategies and establish minimum requirements for implementation and follow-up. Better and early integration of environment into all policies should reduce the implementation deficit.

An initiative should also be taken to promote EPI and the **implementation of the Cardiff EPI Strategies in the Member States**, leading to the development of national processes for environmental integration building on:

- Harmonised reporting and other instruments for information exchange,
- Comparative assessments (peer reviews), and on that basis on
- Trans-national policy learning and the development of networks of experts.

The aim should be to create a continuous and stable process – incorporating elements of the Open Method of Co-ordination – and thereby stabilise EPI policies in the Member States and other countries.

## **8 Annexes**

### **8.1 Environmental Policy Instruments Compendium**

The following list is a compendium of environmental policy instruments, which were discovered in the course of the study. They are grouped into 'Command and Control', Information-based, Economic (market-based) and Voluntary instruments.

#### **1. 'Command and Control'**

Bans

Emission standards

Licensing

Phasing out of products/substances

Quality standards

#### **2. Information-based**

Advertising

Awareness raising

Cost-benefit assessment

Eco-Audits

Education

Environmental Impact Assessment

Labelling

Life-Cycle Analysis

Penalties

Planning

Public information

Research

Risk Assessment

Strategic Environmental Assessments

Sustainable Impact Assessments

#### **3. Economic (market-based)**

Charges

Eco-taxes

Emission trading\*

Funding

Green accounting

Green procurement

Incentives

Liability

Marketable permits

Permitting

Restrictions of using or putting on the market substances and /or products

Subsidies

Tradable permits

#### **4. Voluntary**

Participation

Tripartite contracts\*

Voluntary agreements

#### **Note:**

*\* identifies new instruments*

## **8.2 Glossary**

### ***Cardiff process***

The Cardiff process was initiated by the European Council meeting in Cardiff 1998 in order to implement Article 6 of the EC Treaty, which calls for integrating environmental concerns into other policy areas. Nine Council formations are requested to develop so-called Cardiff strategies dealing with environmental integration.

### ***Convention on the Future of Europe***

The Convention on the Future of Europe was established by the European Council meeting in Laeken 2001. It has the task of preparing the next Inter-Governmental Conference which takes place in 2004.

### ***Enhanced Co-operation***

Enhanced Co-operation is a process which was introduced with the Amsterdam Treaty. It allows a group of Member States, under certain conditions, to go further than the rest of the Member States.

### ***Governance***

The term 'governance' covers rules, processes and practices that affect how powers are exercised at the European level.

### ***Headline indicators***

Baseline for the annual synthesis report, which serves to evaluate the implementation of the Lisbon process.

### ***Integration***

See Cardiff process.

### ***Lisbon process***

The Lisbon process is a process initiated by the European Council meeting in Lisbon, which set the goal 'to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion'.

### ***Open Method of Co-ordination***

In contrast to the traditional environmental policy, the Open Method of Co-ordination is based on the voluntary co-ordination of Member States policies. It stresses the importance of shared policy learning.

### ***Sixth Environment Action Programme***

The sixth Environment Action Programme sets the framework for EU environmental policy until 2010. It forms the main environmental contribution to the EU Sustainable Development Strategy. Seven Thematic Strategies will be developed, which set specific objectives, targets and timetables.

### ***Sustainable Development***

The concept of sustainable development refers to a form of economic growth which satisfies society's needs in terms of well-being in the short, medium and - above all - long term. It is founded on the assumption that development must meet today's needs without jeopardising the prospects of future generations. In practical terms, it means creating the conditions for long-term economic development with due respect for the environment.

### ***Sustainable Development Strategy***

The Helsinki European Council in December 1999 invited the European Commission to "prepare a proposal for a long-term strategy dovetailing policies for economically, socially and ecologically sustainable development" in time for the Göteborg European Council in June 2001, which was adopted at this meeting. It contains a number of concrete proposals for how the European Union can improve its policy making to make it more coherent and focussed on the long term, as well as a number of specific headline objectives and the measures needed to achieve them.

### ***Synthesis report***

Yearly report on achievements of the Lisbon process to be presented at each Spring European Council.

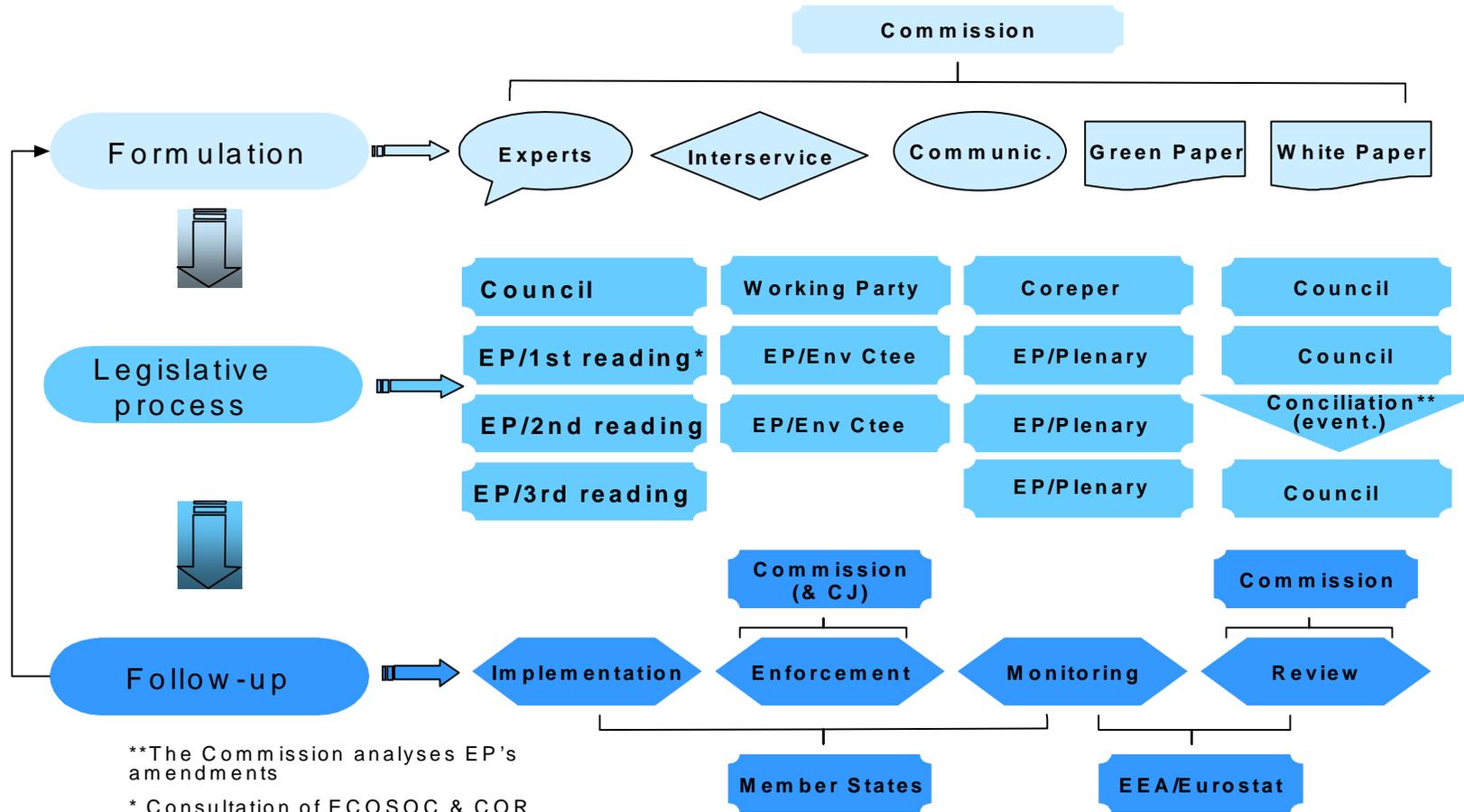
### ***Traditional Environmental Policy***

Traditional environmental policy means the adoption of environmental directives, regulations and decisions which are based on proposals of the Commission, which are adopted as legal instruments by the Council of Ministers and the European Parliament and which are enforced ultimately by the European Court of Justice.

### ***White Paper on Governance***

The White Paper on Governance was adopted in June 2001 by the EU. It deals with enhancing democracy in Europe and increasing the legitimacy of institutions.

Chart 13: Environmental Policy-making Check-list (Co-decision procedure)



**Annex 8.3 of the study:**

**EU Environmental Governance: A Benchmark of Policy Instruments**

**With a focus on Agriculture, Energy and Transport**

<b>INTEGRATION Instruments</b>	<b>6th EAP (Common position - agreed in June 2002)</b>	<b>Agriculture Strategy</b>	<b>Transport Strategy</b>	<b>Energy Strategy</b>
<b>Themes</b>	<b>Objectives - Targets - Time frame</b>	<b>Objectives - Targets - T/ frame</b>	<b>Objectives - Targets - T/ frame</b>	<b>Objectives - Targets - T/ frame</b>
<b>CLIMATE CHANGE</b>	<b>CLIMATE CHANGE</b>	<b>CLIMATE CHANGE</b>	<b>CLIMATE CHANGE</b>	<b>CLIMATE CHANGE</b>
<b>GHG reduction</b>	Kyoto targets, i.e.8% emissions red. by 2008/2012 (compared to 1990 levels)  further step : credible position to advocate it Long term : max T° change of 2°C and CO2 concentration below 550 ppm (GHG red. of 70%)		Refers to Kyoto Protocol	internalising the external costs/ environmental benefits energy sector can make a significant contribution towards fulfilling the Kyoto commitments
<b>CO2 Tradable Permits System</b>				review of energy implications of emissions trading
<b>Energy</b>			recognises need for both efficiency and alternative fuels in transport sector	
<b>Renewable Energy</b>				promoting a sustained increase of renewable energy sources refers to, no targets
<b>Dir. Renewable Energy</b>	12% of renewable energy by 2010			
<b>Community Energy Framework Programme - ALTENER</b>	22% of the electricity production by 2010 (in sust. use & mgt of natural resources & waste)			refers to
<b>Energy efficiency and saving</b>				enhancing energy efficiency and saving
<b>Dir. Energy-efficient devices/ electrical appliances</b>	promote eco-efficiency practices and techniques in industry			further actions through e.g. Action Plan for Energy Efficiency in the European Community
<b>Dir. Energy efficiency of buildings</b>	design of buildings			
<b>Dir. Combined heat-power</b>	18% of total gross electricity generation by 2010			
<b>Community Energy Framework Programme - SAVE</b>				refers to
<b>Alternative fuels, including biofuels</b>				
<b>Community Energy Framework Programme - CARNOT</b>				refers to; solid fuel technologies

<b>INTEGRATION Instruments</b>	<b>6th EAP (Common position - agreed in June 2002)</b>	<b>Agriculture Strategy</b>	<b>Transport Strategy</b>	<b>Energy Strategy</b>	
<b>Themes</b>	<b>Objectives - Targets - Time frame</b>	<b>Objectives - Targets - T/ frame</b>	<b>Objectives - Targets - T/ frame</b>	<b>Objectives - Targets - T/ frame</b>	
<b>Co-operation with industry</b>			Calls on Commission to elaborate research strategy for both renewable fuels and energy efficiency in transport	promoting environmentally friendly technologies,	
<b>Co-operation with citizens and consumers</b>				developing sustainable consumption and production patterns	
<b>Taxes and subsidies</b>					
<b>Dir. Energy tax</b>				refers to the discussion, no criteria	
<b>Subsidies</b>					
<b>Fossil subsidies</b>				gradually phasing out the subsidies by 2010	
<b>Research</b>				major theme	promoting research, development, demonstration of new/ advanced technology and techniques
<b>Adaptation to the consequences</b>				assessment and reviewing of policies	monitor at 2 years intervals
<b>International considerations</b>				cooperation for enlargement and assistance for developing countries	improving co-ordination between Member States enhancing the integration of sustainable development into energy policy in enlargement process and regional co-operation
<b>TRANSPORT &amp; LAND USE</b>				<b>TRANSPORT &amp; LAND USE</b>	<b>TRANSPORT &amp; LAND USE</b>
<b>Decoupling (modal shift)</b>	encouraging switch to more efficient and cleaner forms of transport (in Climate)		Supports objective of stabilising modal split at present levels within 10 years, and increasing the modal share of environmentally friendly modes thereafter. Strategy emphasises potential role of land use planning in reducing the need for transport		
<b>Land use planning</b>					
<b>Balanced devt</b>	env responsible farming with a balanced approach to the multifunctional role of rural communities (in Nature and biodiversity)				Transport systems must meet needs 'consistent with human and ecosystem health'; ensure 'balanced regional development'; and minimise use of land.
<b>Land observation network</b>	earth monitoring in support of policy making (in Policy making)				
<b>Policy coherence</b>					Calls on the Commission to elaborate possible use of indicative long term and intermediate environmental targets.
<b>Income in rural zones</b>					
<b>Pricing</b>					

<b>INTEGRATION Instruments</b>	<b>6th EAP (Common position - agreed in June 2002)</b>	<b>Agriculture Strategy</b>	<b>Transport Strategy</b>	<b>Energy Strategy</b>
<b>Themes</b>	<b>Objectives - Targets - Time frame</b>	<b>Objectives - Targets - T/ frame</b>	<b>Objectives - Targets - T/ frame</b>	<b>Objectives - Targets - T/ frame</b>
<b>Pricing framework</b>	reflect the full environmental costs for all the energy uses (in Climate)		Recognises need for fair and efficient pricing and calls on Commission to 'promote and facilitate' use of market mechanisms	
<b>Unified road payment system</b>			see above	
<b>Infrastructure investments</b>				
<b>Reg. Transeuropean networks</b>	instruments to mitigate traffic noise (in Env & health & quality of life)			
<b>European open sky &amp; rail</b>	Open sky/rail			
<b>Telework</b>			Strategy notes that teleworking 'might reduce transport demand'.	
<b>Research</b>			Calls on Commission to elaborate research strategy for both renewable fuels and energy efficient technologies in transport	
<b>PUBLIC HEALTH</b>	<b>ENV &amp; HEALTH &amp; QUAL. OF LIFE</b>	<b>PUBLIC HEALTH</b>	<b>ENV &amp; HEALTH &amp; QUAL. OF LIFE</b>	<b>ENV &amp; HEALTH &amp; QUAL. OF LIFE</b>
<b>Chemicals policy</b>	prod. & use without neg impact on Health and Env by 2020 (need for main measures by 2005) accelerated risk mgt procedures and system of authorization for special substances public acces to REACH			
<b>Pesticides</b>	dir 91/414 implementation & review thematic strategy on the sustainable use by 2007* (*at the latest)			
<b>Food</b>				
<b>Food safety &amp; quality</b>		Effective implementation of environmental requirements in Agenda 21 (including RDR)		
		Reporting on RDR implementation every 2 years (from 2002)		
<b>European Food Authority</b>		Report on progress in implementing 'common rules' regulation (cross compliance) by Member States in 2003		
		CAP mid-term review to include review of effects on environment/SD (2002-3)		
<b>CAP</b>		Future CAP proposals to include qualitative assessment of environment/SD effects		
<b>Labelling</b>				
<b>Work health &amp; security</b>				

<b>INTEGRATION Instruments</b>	<b>6th EAP (Common position - agreed in June 2002)</b>	<b>Agriculture Strategy</b>	<b>Transport Strategy</b>	<b>Energy Strategy</b>
<b>Themes</b>	<b>Objectives - Targets - Time frame</b>	<b>Objectives - Targets - T/ frame</b>	<b>Objectives - Targets - T/ frame</b>	<b>Objectives - Targets - T/ frame</b>
<b>Health</b>	<p>early warning mechanism</p> <p>implementation of water framework directive and integration in other policies</p> <p>revision of bathing water directive</p> <p>thematic strategy on air pollution by 2007* appropriate measures for ozone and PM indoor air quality</p> <p>reduce the nb of people affected by long-term level</p> <p>evolution of noise directive measures on noise emissions from services and products by 2010</p> <p>thematic strategy by 2007*</p> <p>international agreements on PIC, POPs, Montreal... taking into account developing countries and enlargement strategic approach on internat. chemicals mgt</p> <p>better understanding of threats: identif. of priorities</p> <p>devt of indicators, research, expertise, standards</p>		<p>Transport systems must meet needs 'consistent with human ... health'. Strategy refers to health impacts of air pollution.</p>	
<b>Resistance to antibiotics</b>				
<b>Infectious disease outbreaks</b>				
<b>Water</b>				
<b>Air</b>				
<b>Noise</b>			<p>Recognised as a key issue in Strategy</p> <p>Recognised as a key issue in Strategy; 2001 resolution adds that transport must minimise the generation of noise</p>	
<b>Urban environment</b>			<p>Council undertakes to make further progress 'by promoting public and non-motorised transport, especially in urban areas'.</p>	
<b>International considerations</b>				
<b>Research</b>				

<b>INTEGRATION Instruments</b>	<b>6th EAP (Common position - agreed in June 2002)</b>	<b>Agriculture Strategy</b>	<b>Transport Strategy</b>	<b>Energy Strategy</b>			
<b>Themes</b>	<b>Objectives - Targets - Time frame</b>	<b>Objectives - Targets - T/ frame</b>	<b>Objectives - Targets - T/ frame</b>	<b>Objectives - Targets - T/ frame</b>			
<b>NATURAL RESOURCES MANAGEMENT</b>	<b>NATURE &amp; BIODIVERSITY</b>	<b>NATURAL RESOURCES</b>	<b>NATURAL RESOURCES</b>	<b>NATURAL RESOURCES</b>			
<b>Environmental liability</b>	by 2010	See above	Potentially adverse impact of transport referred to in Strategy				
<b>Biodiversity</b>							
<b>General</b>	halt decline by 2010 Community biodiv strategy and relevant actions plans						
	establish NATURA 2000 by 2010						
<b>Soil</b>	thematic strategy by 2007*						
<b>Marine - CFP</b>	thematic strategy by 2007* Promotion of integrated mngt of coastal zones integration of envt considerations for CFP by 2002						
<b>Forest</b>	improve community measures which protect forests increase market share for sust produced wood						
<b>GMOs</b>	risk assesst, identif, labelling & traceability by 2010 ratif and implem of Cartagena Protocol on biosafety						
<b>Agriculture - CAP</b>	integration of envt considerations in future review						
	<b>SUST. USE &amp; MGT OF NATURAL RESOURCES &amp; WASTES</b>						
<b>Decoupling (nat. res./waste)</b>	thematic strategy on the sustainable use and management of resources by 2007* including material flow analysis, impacts of subsidies,...						
<b>Resources productivity</b>							
<b>Waste prevention &amp; mgt</b>	Q and q reduction targets by 2010 (prop. in 2002) with devt of indicators sustainable product design encourage waste prevention awareness of the public develop and revise legislation on waste reduction Q of waste going to disposal thematic strategy on waste recycling by 2007*						
					<b>SPECIFIC CROSS-CUTTING ISSUES</b> Review of integration strategy Develop improved/extended indicator set	<b>SPECIFIC CROSS-CUTTING ISSUES</b> Further review of strategy by 2002 Joint Environment & Transport Council during Belgian Presidency Council resolution 'notes' Commission's intention to bring forward a measure to ensure long term funding of TERM indicators.	<b>SPECIFIC CROSS-CUTTING ISSUES</b>

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## 8.5 Abbreviations

CAP	Common Agricultural Policy
CEEC	Central and Eastern European Countries
CM	Community Method
COREPER	Committee of Permanent Representatives
EAGF	European Agricultural Guidance and Guarantee Fund
EAP	Environment Action Programme
EC	European Community
EMAS	Eco-Management and Audit Scheme
EP	European Parliament
ERDF	European Regional Development Fund
ESDP	European Spatial Development Perspective
EU	European Union
GAC	General Affairs Council
GMOs	Genetically Modified Organisms
HAC	Horizontal Affairs Council
IMPEL	EU Network for the Implementation and Enforcement of European Environmental Law
ISPA	Instrument for Structural Policies for Pre-accession
JEG	Joint Expert Group
NGO	Non Governmental Organisation
RFP	Research Framework Programme
SAPARD	Special Aid for Pre-Accession in Agriculture and Rural Development
SDS	Sustainable Development Strategy
SEA	Strategic Environmental Assessment
SIA	Sustainable Impact Assessment
SME	Small and Medium Enterprises
TERM	Transport and Environment Reporting Mechanism
WTO	World Trade Organisation