

# The EU Paradigm of Sustainable Development Calls On Governments to Redefine, Regulate and Tax the Marketplace

## I. Encouraging Markets and Consumers to Work for the Environment Generally

“To date, the approach towards business has largely revolved around setting standards and targets and then ensuring companies comply with these standards. Member States have increasingly supplemented this with market-based instruments, such as **environmental taxes** on different products, which aim to change the price signals in the market place in favor of more environment-friendly products, processes and services.

...In the right circumstances environmental taxes can be highly effective in both cost and environmental terms as the **differentiated tax rates on leaded vs. unleaded petrol** demonstrated. They also provide incentives for companies to research and invest in more environmentally-friendly or less resource intensive technologies...One example of market-based instruments used by the Community is the establishment of **agri-environmental contracts which offer incentive payments to farmers who sign up to specific environmental commitments**” (i.e., hidden environmental subsidies).

The introduction of environmental taxes is often opposed by industry for fear of losses in competitiveness...[T]he Commission’s 1997 proposal for an **energy products tax**...seeks to increase minimum tax rates on energy products that are currently taxed (mineral oils) and to introduce taxes on energy products that have been exempt in some or all Member States so far (gas, electricity, coal), while encouraging Member States to reduce other taxes, in particular charges on labor.

...**Markets and consumer demand can be guided towards products and services that are environmentally superior to competing products** by means of information, education and by ensuring that products, as far as possible, incorporate the true environmental costs. This will encourage business to respond with innovations and management initiatives that will spur growth, profitability, competitiveness and job creation. **It will also enable consumers to adopt greener lifestyles as informed choices**” (emphasis added).

COM (2001) 31 final 2001/0029 (COD), “Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions – On the Sixth Environmental Action Program of the European Community ‘Environment 2010: Our Future, Our Choice’”, at p. 15.

## II. Ensuring that Corporate Governance Schemes Account for the Environment – Promoting Sustainable Production

“...[T]he Community’s Eco-Management and Audit Scheme (EMAS) encourages companies, on a voluntary basis **to set up site or company-wide environmental management and audit systems and to publish periodic environmental performance reports that are independently verified by accredited auditors**.

...[Yet,] **additional measures need to be considered that will help significantly increase the proportion of companies that publish rigorous and audited environmental or broader sustainable development reports** (similar, for example to the [UN sanctioned] Global Reporting Initiative (GRI) which sets out guidelines for companies on how to report on progress towards meeting

sustainable development objectives.

...The Commission, in cooperation with industry groups, will develop a range of tools aimed at helping businesses understand EC environmental requirements and how they should be met. This will include, for example, **guidelines on complying with different legislation, summaries of legislation, 'notebooks' on best practice and cleaner technology in different business sectors, the development of an environmental services vendor directory, and environmental management software that can be downloaded directly from the internet.**

...The Commission, for example, will look at the possibilities of developing **a scheme to encourage SMEs [small and medium-sized enterprises] to self-audit their compliance and improve their environmental management systems.**...As an incentive to SMEs, Member States could be encouraged to streamline their **permitting and reporting procedures for companies accredited under the scheme.**

...Another way of strengthening the partnership with the business community is the use of **voluntary environmental agreements.** These have to conform to **stringent criteria in terms of clear objectives, transparency and monitoring** and have to be effective in achieving ambitious environmental objectives...**Companies that fail to meet legislative environmental requirements are penalized.**

...Within the framework of the...**Integrated Product Policy (IPP)** approach, the Commission will address ways to improve the environmental performance of products throughout their lifecycle. **The aim shall be to satisfy consumer demand with less resources and lower hazards and risks to the environment and prevent waste generation at source.** This will comprise action on **economic incentives for environmentally friendly products, enhancing 'green' demand through better consumer information, developing an objective basis for green public procurement, and action to encourage more environmentally friendly product design.**

This will involve discussion with stakeholders to improve product design on the basis of voluntary actions by companies and sectors and *will, if appropriate, be supported by instruments such as standardization and legislation*" (emphasis added).

COM (2001) 31 final 2001/0029 (COD), "Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions – On the Sixth Environmental Action Program of the European Community 'Environment 2010: Our Future, Our Choice'", at pp. 16-17.

### III. Helping Consumers to Make Informed Choices – Shaping the Marketplace and Creating Consumer Expectations

**"...People, as consumers, need to be given relevant and readily understandable information about a product's environmental credentials if they are to make choices that support environment-friendly initiatives by companies. Public and corporate procurement officers also need this information.** The Commission will look at options to ensure that companies provide the necessary information to consumers via their websites and other communication channels.

*A number of Member States and the Community have developed product eco-label schemes with the aim of influencing consumer choice in favor of more environment-friendly products and to assist the greening of public procurement.*

...The Community will also, within the framework of its proposed Integrated Product Policy [IPP],

look at **measures to encourage the uptake of the types of eco-labels that allow consumers to compare performance between products**. Good examples include the classification of refrigerators and freezers according to their energy efficiency and washing machines according to both their energy and water efficiencies.

Coupled with **financial incentives by governments** such as partial rebates on products that meet the highest environmental performance criteria these can be very effective tools. The Commission will also investigate how more competitive **pricing for green products** in general could be introduced in the internal market...*Information about the content, or lack of content, of certain hazardous substances, the origin of the materials used to make the product, about the recyclability of a product, etc. will also be effective.* **Member States and companies should aim at introducing product information schemes for all types of products in the years to come and the Commission will encourage this under its [IPP]...**

...Public procurement accounts for approximately 14% of demand in the market and **‘purchasers’ in companies and other governmental and non-governmental organizations can help in ‘greening’ the market by using *environmental performance* as one of their purchase criteria.**

...The Commission will also look at the feasibility of **promoting green purchasing by introducing an obligation to carry out, before purchasing, an assessment of the environmental impact of the different alternatives available** that meet the needs of the contracting authorities” (emphasis added).

COM (2001) 31 final 2001/0029 (COD), at p. 18.

#### IV. Greening the Financial Sector by Altering Financial and Non-Financial Reporting and Disclosure Obligations

“The **financial sector’s lending and investment activities** have significant indirect environmental impacts by determining which companies and activities have access to finance and the conditions attached. **Facilitating disclosure of relevant information by the financial sector and companies could create an incentive for ‘greener’ behavior.**

Furthermore, increasing numbers of shareholders and consumers do not just want to know that a company is providing good products and services at a fair price[;] they also want to be reassured that these have been produced in an environmentally and socially responsible manner. *The Commission will work to help the financial sector by encouraging the systematic incorporation of environmental cost elements into financial reports.*

...And, in addition, in co-operation with the European Investment Bank and the European Bank for Reconstruction and Development, **we can have a more direct impact on the flow of funds to environmentally friendly activities”** (emphasis added).

COM (2001) 31 final 2001/0029 (COD), at p. 19.

#### V. Empowering Civil Society to Help Change Consumer Behavior and Promote Sustainable Consumption

“**Europeans** are strongly committed to protecting the environment and in recent years we **have begun to play a more active role, as individuals, in environmental protection.** Many people have started to make efforts to change their personal and family behavior, for example by recycling, buying

environment-friendly products and installing energy efficient systems in our households.

Furthermore, **well-informed citizens [civil society] who are actively involved in environmental decision-making are a powerful new force in achieving environmental results. People are demanding a stronger voice in the decisions made at the community, regional, national and international level that affect our health and the quality of our environment.** To be effective, however, they need quality information that they can use and understand and they need the appropriate access to decision-makers to be able to express their views.

**Under the Aarhus Convention, the Community and Member state institutions have signed up to a series of commitments regarding improved transparency, access to environmental information, and public participation in environmental decision making.** Revisions to community legislation and procedures are already underway and will be completed in the coming years. **The Commission is also committed to improving participation by interested parties in policy making and target setting...Full implementation of the directive on Environmental Impact Assessment will help empower citizens by giving greater opportunity for a say in decisions on planning, projects and policies.**

For people to exercise their power as voters and as interested parties in decisions made by all levels of government, they need to know and understand what the issues are, what is needed to resolve them and how they can contribute. Thus environmental education, information...and awareness raising initiatives will be essential...

*...Information for citizens aimed at encouraging more sustainable lifestyles, is probably best provided at the local, regional and national level and by a range of organizations from government to NGOs, which command respect and trust. Practical information is needed that helps people to use and buy alternative products and services that are energy efficient, recyclable or otherwise environmentally benevolent...The Community can help encourage the spread of this sort of activity through information on best practice and practical tool-kits aimed at kick-starting action by local authorities or other organizations.*

...Environmental reporting by companies and authorities needs to make information available at a local level so that people can easily obtain data on emissions from factories or other installations in their area..." (emphasis added).

COM (2001) 31 final 2001/0029 (COD), at pp. 20-21.

## VI. Helping to Solve International Problems – The EU Must Work Through the United Nations to Establish the Precautionary Principle as a Norm of International Law

“Economic globalization means that the need to take environmental action at the international level is now even more pressing than only a few years ago...**Globalization has significant environmental implications and requires new policy responses.**

...Europe...has been a leading proponent of international environmental action and co-operation. This co-operation should extend to the search for greater international consensus thus helping to avoid trade conflicts **and gain acceptance of an approach based on the [P]recautionary [P]rinciple.** [\*\*\*\*]

...The **citizens of the developing countries** need the understanding that there is a positive link between development, environmental quality and standard of living.

...Objectives: 1) Integration **of environmental concerns and objectives into all aspects of the**

**European Union's external relations; 2) Environment is taken seriously and is properly resourced by international organizations; 3) Implementation of international conventions, particularly on climate, bio-diversity, chemicals and desertification.**

...Integration of the environment into the European Union's external policies...

**...Development policy must continue to support the sustainable management of water, soil, and forests, access to and tenure of resources, access to sustainable energy and the interaction between health, poverty and the urban environment.**

**Trade policy, at the multilateral level and also in all regional and bilateral agreements, should be supportive of environmental protection. Trade, and international investment flows and export credits have to become more positive factors in the pursuit of environmental protection and sustainable development.**

...Action...Continue to develop methodologies and criteria for conducting sustainability impact assessments for all multilateral and bilateral trade agreements.

...Strengthen international environmental governance. Existing international bodies that deal with environmental issues must be reinforced to give them greater weight and influence and make them more efficient. This means:

- ***[S]trengthening the international institutional framework, in particular the UN Environment Program (UNEP) in the short term, and ensuring a better co-ordination of environmental institutions, including **improving co-ordination between conventions through co-location of secretariats, funding and compliance mechanisms**;***
- [S]ecuring financing and greater political attention;
- ***[P]utting the **emphasis in the development of international environmental law**, on better implementation and monitoring of existing conventions.***
- In the longer term, the global institutional setting for the environment should be capable of matching the economic institutional pillar.

***...The European Union has to play an active role in international forums, and establish a **more effective presence in international environmental organizations, particularly UNEP.*****

**The EU should also work to strengthen the integration of environmental considerations in the activities of other UN bodies and the international financial institutions. This should be matched by an equally strong and united impact in related financial discussions through better co-ordination with Member States" (emphasis added).**

COM (2001) 31 final 2001/0029 (COD), at pp. 58-60.

## VII. Stimulating Industry Innovation and Shaping Public Opinion via Regulation and NGO Activism

...[T]he sources of environmental pollution are no longer concentrated in individual industrial facilities but lie in manifold economic activities and consumer behavior. This limits the scope for solving them through simple command-and-control.

In this situation, **business has an increasing role in achieving environmental objectives and targets**... Companies that innovate in an attempt to win new markets or increase competitiveness should also be looking at reducing their levels of pollution and waste.

...**Regulation can serve to stimulate enterprises to innovate profitably, both in terms of their market and the environment. Legislation should aim at setting the appropriate high standards that must be attained**, but aim at regulating results or outcomes rather than be prescriptive in the means for achieving the goals. Regulation must be flexible, accounting for widespread economic and geographic diversity... Finally, regulation can offer positive incentives to companies to perform well, for example, even to exceed the standards set.

In some cases, **non-regulatory** methods will be the most appropriate and flexible means of addressing environmental issues. The Commission is currently examining new methods of governance, including alternatives to traditional regulation such as voluntary commitments and agreements... ***This also includes, when appropriate, setting a regulatory framework establishing policy objectives and leaving the practical implementation measures to be defined by industry in a consensual manner, in support of the legal framework ('co-regulation')***. [e.g., *Commission delegations to regional technical standards groups*].

...Broadening the dialogue. The Commission has made a commitment to develop more open and transparent government, which brings European citizens closer to the European institutions. **This also has special reference to the process of policy making where real efforts need to be made to ensure that the full range of interested groups are given the opportunity to influence decision making.** This must include economic interests, national, regional and local authorities and **environmental groups**.

**Non-governmental organizations (NGOs) have an important role to play in channeling the views of the 'person in the street' to decision-makers, in participating in expert or technical groups and in monitoring the implementation of legislation. They represent a broader public interest in the policy process**" (emphasis added).

COM (2001) 31 final 2001/0029 (COD), at pp. 61-62.