

Key drivers and uncertainties

Economic and population growth cause increasing emissions of reactive nitrogen, ozone precursors and chemical waste. Climate change and land use changes may influence the emissions from natural sources. Increased demand for energy, transport, food and non-food crops may further increase emissions arising from human activity and changes in consumption and production patterns are likely to affect the distribution of pollutants. Legislation and technology may, however, help decouple pollution from economic growth.

Key uncertainties concern the actual impacts of different pollutants on health and ecosystems, as well as their compound effects. The possible effects of nitrogen, ozone and particulate matter on climate change represent a complex cross-cutting issue with many uncertainties, notably with respect to consumer behaviour, risk awareness, technology developments and policy responses.

11 Environmental regulation and governance: increasing fragmentation and convergence

The world is devising new governance models, including multilateral agreements on numerous issues and public-private ventures. In the absence of global regulation, advanced European standards and procedures have often been adopted worldwide. But will this situation continue in the future?

Global regulation and governance increasingly extends beyond law-based multilateral international treaty regimes and organisations to include alternative modes. Four distinct but interrelated trends are apparent:

- increasing regional cooperation and integration;
- the growing importance of groupings of leading countries such as the G8 and G20;
- increasingly diverse approaches to regulation and a stronger role for softer forms of policy coordination (i.e. guidelines, frameworks and codes);
- the growing relevance of non-state actors and hybrid forms of public-private governance.

These trends are accompanied by increasing globalisation of administrative law and concerns about the legitimacy, credibility and accountability of new approaches to global regulation and governance (Grevi, 2010). However, it remains highly uncertain how the trends will develop in practice.

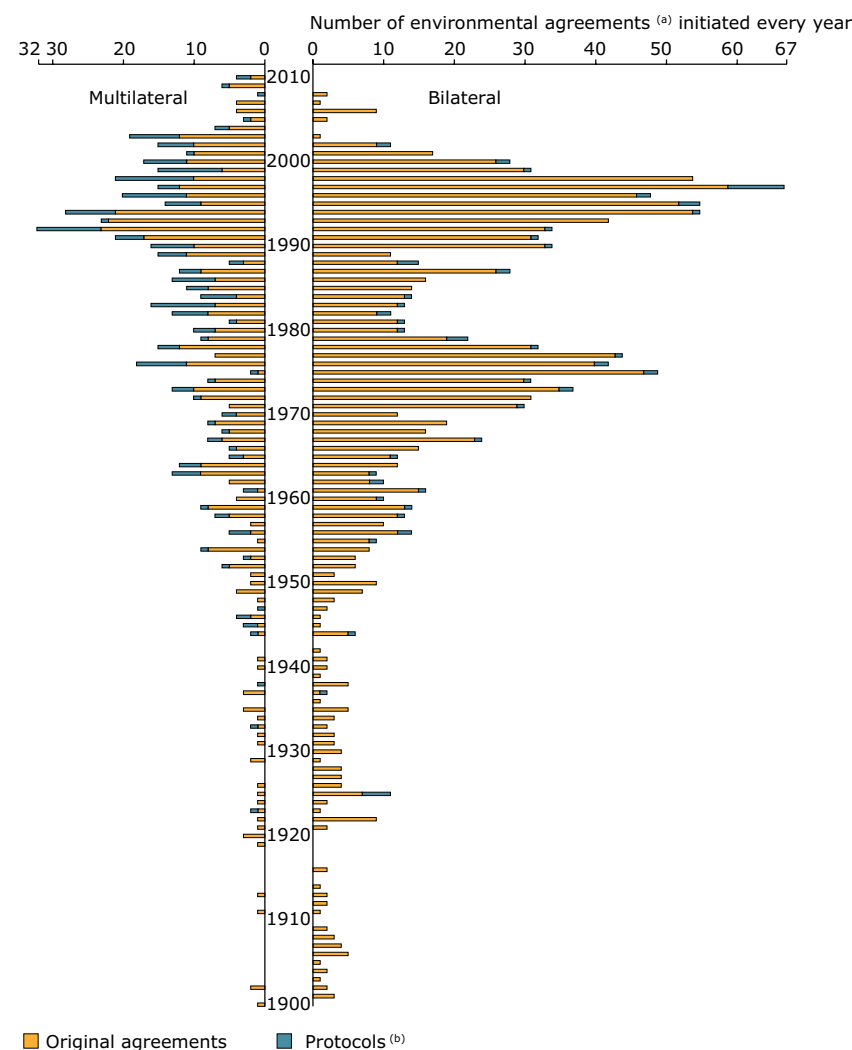
The proliferation of multilateral environmental agreements has been a key trend of recent decades (Figure 11.1). The 1990s saw a peak in the

number of multilateral organisations and treaties agreed, including the World Trade Organization (1994), the Kyoto Protocol (1997), the International Criminal Court (1998) and the UN Millennium Declaration (2000). However, this drive has eased since then. Global negotiation processes such as the Doha Development Round of the WTO and talks on a follow-up to the Kyoto Protocol have become more complex. There has, however, been some progress towards closer cooperation in many regions, most notably east Asia. Countries increasingly collaborate to bring down trade barriers, harmonise product standards and to equalise production requirements such as environmental regulations (Crawford and Fiorino, 2005) (Figure 11.2). This is likely to continue. The EU continues to be the first mover, followed by blocs such as NAFTA and ASEAN plus three (APT).

Global regulation is likely to continue and extend to new areas, given the persistence of old global challenges and the emergence of new ones. However, the way in which regulation is agreed is evolving. Over recent years policymaking and coordination has increasingly shifted from the UN umbrella to informal groupings of leading countries, such as the G8 or G20. Regulation of the financial markets is being strengthened under the revision of the banking supervision accords (also called Basel III) by the Basel Committee on Banking Supervision (made up of G20 member countries and major banking countries such as Switzerland, Hong Kong and Singapore) to prevent a repetition of the financial crisis of 2008–2009, for example. Similarly, the BRIC countries now meet in a specific summit format. Beneath this proliferation of summit meetings is a trend towards 'functional' or 'messy' multilateralism: ad hoc coalitions of relevant countries willing to address a specific challenge (Haass, 2010).

Another major trend often goes unnoticed yet it is highly relevant and likely to shape future regulation: the globalisation of administrative law. While the processes of legislating are becoming increasingly fragmented and diverse, there is increasing uniformity and integration in norms and standards (for example with respect to environmental impact assessment, which is covered by International Organization for Standardization (ISO) Standard 14011).

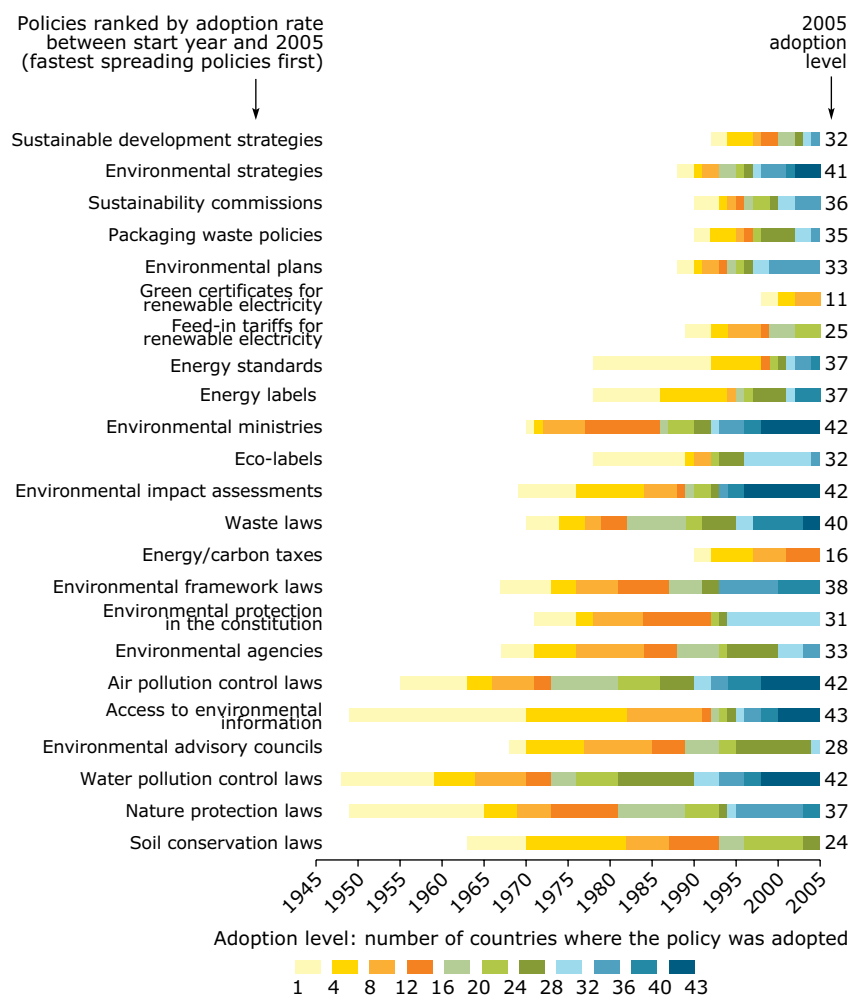
Figure 11.1 International environmental agreements since 1900



Note: (a) Environmental agreements are understood here as intergovernmental legally binding documents with a primary stated purpose of preventing or managing human impacts on natural resources.
(b) Protocols modify and strengthen existing agreements.

Source: Mitchell, 2010.

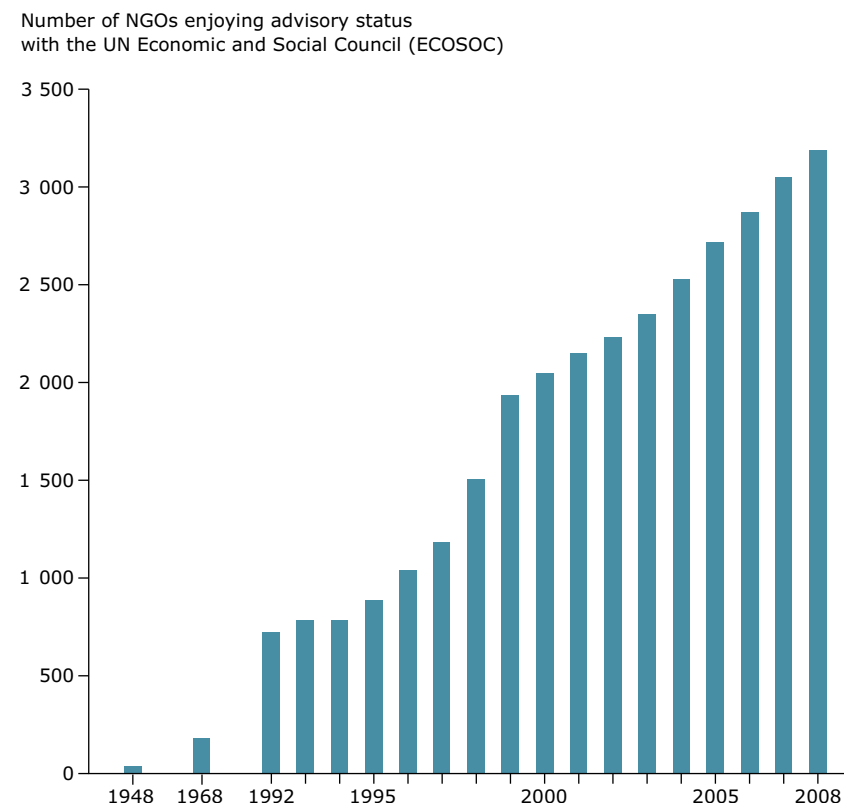
Figure 11.2 International spread of environmental policies across 43 OECD and Central and Eastern European countries



Note: Countries included in the study: Albania, Australia, Austria, Belarus, Belgium, Bosnia, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Germany, Estonia, Finland, France, Greece, Hungary, Ireland, Iceland, Italy, Japan, Latvia, Lithuania, Luxembourg, the former Yugoslav Republic of Macedonia, Moldova, New Zealand, the Netherlands, Norway, Poland, Portugal, Romania, Russia, Slovakia, Slovenia, Sweden, Switzerland, Spain, South Korea, Turkey, Ukraine, the United Kingdom, USA.

Source: Busch and Joergens, 2005.

Figure 11.3 Growing relevance of non-state actors



Source: ECOSOC, 2008.

Principles of good governance are widely accepted across the world, both in public and corporate settings, and many have been informed by environmental law. Norms and standards can be highly effective even if they are non-binding. These 'softer' versions of policy coordination are increasingly complemented by bilateral policy learning and voluntary action. Diffusion of best regulatory practice between nation states is gaining speed as a consequence (Busch and Joergens, 2005). More often than not it leads to increasing convergence of policies and standards at the national level, despite worries about the absence of progress in international negotiations.

International policy processes are increasingly influenced by private actors, such as transnational corporations or non-governmental organisations, which represent essential sources of information and knowledge. While the nation state is likely to remain the overall dominant source of political power and authority, making and implementing transnational norms and rules is increasingly shared with non-state actors — a process terms 'co-regulation' (Falkner, 2008).

Global public-private partnerships are expected to grow in importance, covering a broader spectrum of issues such as standard setting, law enforcement and development aid (Andonova, 2010). The rise of these hybrid forms of global governance is also linked to the spread of concepts such as privatisation and deregulation, and the desire to mobilise private capital. However, private-private partnerships (without the involvement of governmental actors or international organisations) are important as well. Private actors such as transnational companies increasingly establish and monitor their own regulations based on shared norms and principles as well as roles and responsibilities.

The increasing role and relevance of non-state actors also gives rise to concerns about accountability and legitimacy. Setting and applying rules and standards by international bodies with no legislative authority increasingly places obligations on national legislators who are not represented in these processes. Furthermore, NGOs are often concerned that they are not given a proper hearing by corporate actors who then dominate decision-making. In recent years there have been growing calls for more balanced participation by non-state actors, greater transparency and clear procedures, with continuing pressure on public and corporate decision-makers nationally and internationally.

New forms of cooperation are not likely to be a full alternative to the classic multilateral approach of international decision-making, and the calls for reforms of existing global governance structures are likely to intensify (Biermann et al., 2009). Pressure to better integrate and represent emerging economies in global institutions and processes is unlikely to wane. Different democratic traditions, preferences and interests are expected to challenge the western norms and values that underpin much of the existing global system of governance (Grevi, 2009).

Box 11.1 Why is global regulation and governance important for Europe?

In the past, Europe has often benefited from the globalisation of regulatory standards that resembled its own advanced standards. Further developing international regulation can allow Europe to maintain its relatively advanced sustainable development policies without losing its competitive edge in global markets. Harmonising standards may have a positive effect on the sustainability of foreign production practices worldwide, for example by increasing diffusion of resource-efficient, low-carbon technologies. Europe, as a major importer bloc, can insist on sustainability in its trade relations. However, the positive effects of increased trade depend on the effectiveness of Europe's own environmental policies. If weak then the removal of trade barriers could simply boost Europe's economy, increase the impact on natural resources and the environment.

Many observers fear that the EU could wield less global influence in the future due to economic power shifts and barriers to coordinated action. The latter include the rules of participation in international organisations (i.e. regarding whether the Commission or the Council should represent the Union), the time needed for internal coordination, and disputes about shared competencies (among Member States, the EU Council and the European Commission).

Progress in international negotiations may continue to stall. Current changes in global governance mechanisms will make it a hard to design policies to represent European interests in formal and informal international forums. It demands new approaches to enhance joint policy formulation in areas such as trade, environment, development aid, technology, and defence and security.

Key drivers and uncertainties

Economic globalisation is continuing and will further expand. The ratio of global exports to global GDP rose from 5.5 % to 19.4 % in the period 1950–2005. Trade barriers and different standards hamper growth and thus pressure to harmonise regulations is likely to continue alongside the regional and global integration of markets. Rapid economic growth in emerging economies, changing resource scarcity patterns and the growing impacts of climate change will create demands for global and regional regulation in the areas of economics, trade and the environment. The role and relevance of leading country gatherings such as the G8, G20 and G77 are likely to increase.

Dissatisfaction with progress in international negotiations in key areas such as trade and environment is likely to drive an increased focus on regional integration. Governments will need non-state actors to help with policy formulation and implementation as their own resources will be inadequate.

Uncertainty marks this megatrend at every turn. Major uncertainties relate, for example, to the continuation of current economic growth patterns globally and the impacts of the recent financial and economic crisis. How emerging economies' institutions perform and how their democracies develop is another key uncertainty as both affect economic growth and international negotiation processes. Many emerging economies are undergoing fundamental socioeconomic change in a much shorter time than developed economies did, while their governance remains inadequate. Global governance developments will also be heavily influenced by the extent to which citizens press for participation, transparency and accountability in global negotiations. The effectiveness of soft approaches to global policy coordination depends hugely on policy implementation at home, which faces its own problems.

Links between global megatrends and Europe's environmental challenges

Dedicated management of natural capital and ecosystem services emerges as a compelling integrating concept for managing the links between global drivers and the four priorities of the EU's 6th Environment Action Programme.

The SOER 2010 (EEA, 2010f) emphasises four sets of key environmental challenges: climate change, biodiversity loss, growing material resource use and continuing concerns related to environment, health and quality of life.

While providing detailed assessments of each of the four overarching environmental challenges and related environmental issues, SOER 2010 also stresses the importance of links between environmental challenges. The global megatrends presented in the preceding chapters imply a variety of additional social, technological, economic, environmental and political factors beyond Europe's control that are already affecting the European environment and are expected to continue doing so.

Amid this complexity, the notion of dedicated management of natural capital and ecosystem services emerges as a compelling integrating concept for managing these multiple challenges effectively. Climate change is an obvious challenge. The EU has reduced its greenhouse gas emissions and is on track to meet its Kyoto Protocol commitments. However, global and European cuts in greenhouse gas emissions are far from sufficient to keep average world temperature increases below 2 °C. A whole set of global socioeconomic megatrends influence climate change mitigation and the severity of impacts in Europe. Projected direct impacts include biodiversity change, particularly in the Arctic, the Alpine region and the Mediterranean. Water scarcity is projected to become more pronounced in many southern European rivers, while coastal and river flooding problems are likely to increase as well.