

# European Environmental Trends in the 1990s

*Bernhard H. Metzger*

Companies worldwide would do well to take note of environmental trends now developing in Europe. For a number of reasons, including high population densities, scarce natural resources, and early environmental degradation caused by the industrial revolution, Europeans are highly sensitized to environmental issues. Recent polls show that they consider the environment more important than either national security or public welfare. And environmental policies now being developed by the European Community (EC) as it moves toward a single market will likely set the standard for non-European countries as well.

The EC's harmonization plans call for synchronization of both environmental regulations and management practices. In the public arena, the EC's declared policy for 1992 is to make Community environmental standards approximate the highest of the national levels that exist at that time among member states. (Harmonized standards will constitute „floors;“ member states will be free to implement stricter regulations.) In the private sector, harmonization will affect technical standards. Multinational companies will likely be driven by the convergence of national compliance requirements, by ever-increasing public expectations and pressures, and by the emergence of a communitywide pollution liability scheme.

Companies that understand the environmental „upward harmonization“ now occurring in the EC, as well as the „green“ trend that is surging through all of Europe, will be in a position to make intelligent decisions regarding European investments, business sitings, and risk management. Moreover, they will be able to manage their risks more effectively if they are aware of the changing liability climate in Europe and the regulations that will promote public scrutiny of industry activities. In this article we review the current state of environmental programs in Europe, discuss the forces driving these programs, and suggest approaches for companies planning to do business in Europe.

## Four Tiers of Environmental Regulation

Currently, a continental divide separates European countries according to the stringency of their environmental programs. Although this line is commonly said to split northern and southern Europe, in fact four tiers have emerged (Exhibit 1). Tier 1 includes EC members Denmark, Luxembourg, the Netherlands, and Germany, as well as three countries outside the EC: Norway, Sweden, and Switzerland, which are members of the European Free Trade Association (EFTA). Some of Western Europe's toughest environmental laws and most advanced regulatory systems are found in these countries. Western Germany, for example, has had a water-management law in place for more than 20 years that imposes strict liability on property owners for health and environmental damage caused by water pollution. In 1989, the Netherlands adopted a very ambitious, long-term national environmental policy program. By 2010, the plan is intended to reverse the country's environmental degradation problems caused by past industrial and agricultural activity and move the Dutch along the path to sustainable development. (Despite the recent reunification of Germany, whereby Germany's Tier 1 environmental laws and regulatory systems now apply to both Western and Eastern Germany, the level of actual environmental performance in Eastern Germany falls into the Tier 4 category.)

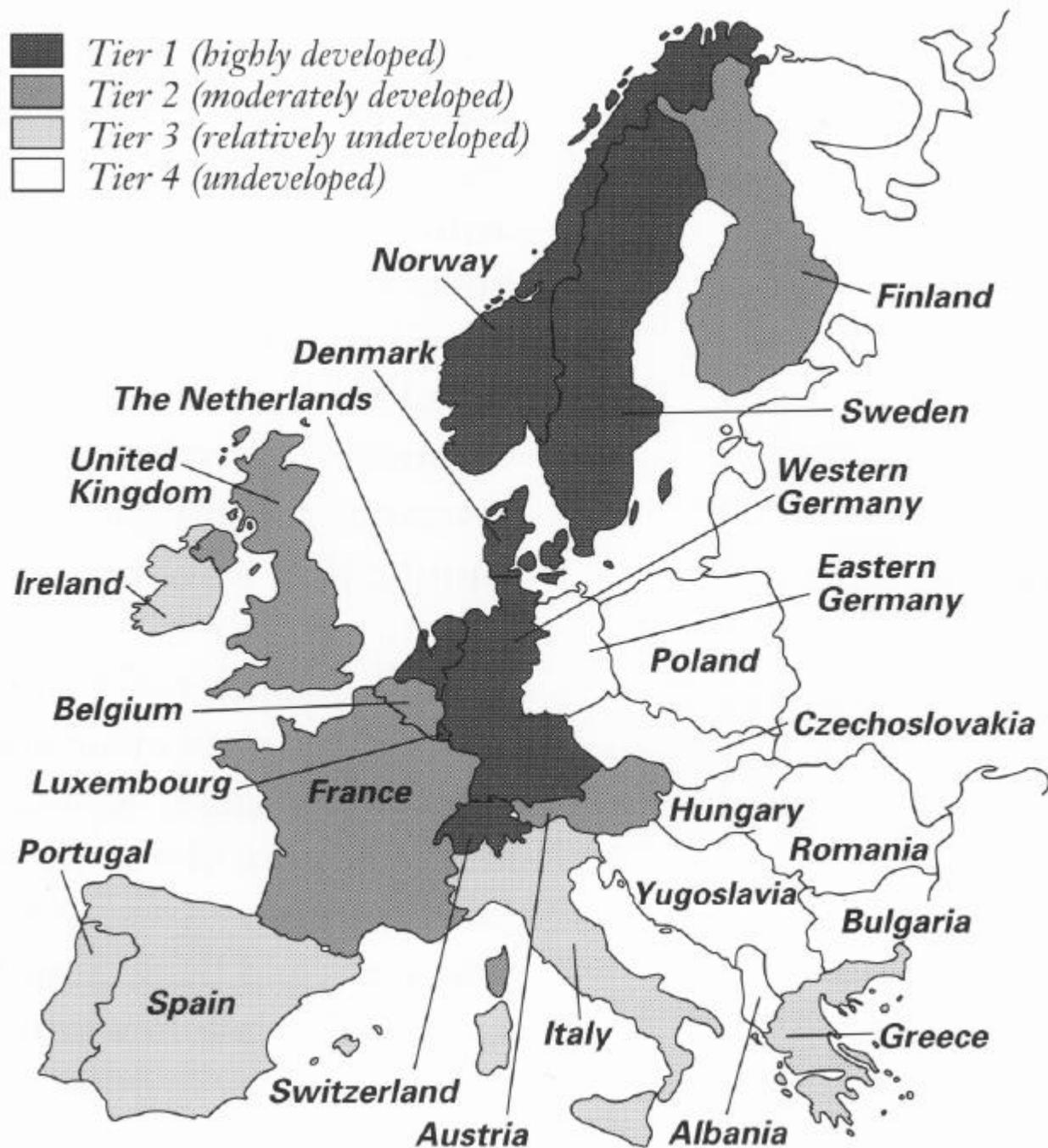
Tier 2 consists of EC members Belgium, France, and the United Kingdom, as well as EFTA members Austria and Finland. Countries in this tier have only in the last few years begun to address the environmental concerns voiced in neighboring countries. France, for example, has until recently lacked an environmental lobby to press for strict enforcement. As a result, the government made minimal efforts to influence the costs of hazardous-waste treatment and disposal, prompting even generators in other countries to ship their hazardous wastes to French disposal sites.

Tier 3, which has relatively undeveloped regulatory programs, is made up of Greece, Ireland, Italy, Spain, and Portugal, all members of the EC. In each of these countries, massive investments will be required to manage environmental initiatives and try to match the standards of even Tier 2 countries. In Italy, for example, about half the wastewater treatment plants are not working, and cities such as Milan, Palermo, and Florence have little or no wastewater treatment. A billion-dollar project is under way to treat the municipal wastewaters of greater Milan.

And the newly democratic countries in Eastern Europe, lagging far behind their Western neighbors environmentally, constitute the largely unregulated Tier 4.

**Exhibit 1**

**Four Tiers of European Environmental Regulatory Programs**



When upward harmonization is applied throughout the EC, the most dramatic changes in environmental standards will occur in the southern countries. Companies that have been accustomed to the level of environmental regulation found in southern Europe will have to invest a great deal of money and equipment in pollution control. The governments of the affected countries are each expected to spend tens of billions of dollars on pollution control during the next 10 to 15 years, as are industries within those countries. The largest investments will probably have to be made in water-pollution control, followed by air-pollution control and waste management. Not only third-tier nations, such as Spain and Italy, but also more environmentally advanced countries, such as the United Kingdom, can expect high expenditures in these areas. The EC member states are expected to increase environmental expenditures to 2 to 3 percent of their gross national product from the current average of roughly 1 percent.

But the countries of Eastern Europe, plagued by a 45-year legacy of environmental neglect, face even greater challenges. Rivers such as the Elbe coming out of Eastern Germany and the Vistula coming out of Poland carry great quantities of contaminants into the North and Baltic Seas. Poland, for example, expects to need \$20 billion worth of aid as well as information and technology in order to revamp polluting industries and otherwise restructure the economy with an eye toward environmental protection. All of Eastern Europe is expected to require as much as \$500 billion over the next 10 years to halt health and environmental degradation and reach Western European standards.

Germany and some of the Scandinavian states were the first to help Eastern Germany and Poland revamp their environmental management programs by providing technical assistance and money to build waste-water treatment plants and install air-pollution-control equipment. In July 1989, the Group of 24 industrialized countries established a Poland/Hungary relief effort (PHARE) that earmarks money for the environment, in addition to other initiatives. Both Poland and Hungary have been promised roughly \$1 billion from PHARE, approximately \$30 million of which will go to environmentally related projects such as development of cleaner power plants, air-pollution control, water-pollution control, and waste disposal. In July 1990, the PHARE program was extended to include Bulgaria, Czechoslovakia, Eastern Germany, and Yugoslavia. Since German unification in October 1990, billions of dollars have been invested in Eastern Germany's environmental restructuring.

Eastern Europe will also receive environmentally targeted loans from the European Investment Bank, the newly established Bank for European Reconstruction and Development (BERD), and the World Bank. For example, in 1990 the World Bank loaned \$19 million to Poland to be used for national environmental planning. It is considering a much larger loan to Hungary to repair damaged natural resources and to control pollution.

The outlook for pollution cleanup and control in Eastern Europe improved further in June 1990 with the announcement that the Eastern European countries, including the Soviet Union, would likely participate in the EC's new European Environmental Agency. It is Eastern Europe's goal to meet EC environmental standards by the end of the decade. Although this is an ambitious objective, the commitment within Eastern Europe, together with the support of neighboring countries – which are also feeling the pressure to raise environmental standards throughout Europe – will help to move Eastern Europe toward this goal. Several fundamental forces will contribute to progress.

### **Forces of Change**

The European environmental profile has undergone – and will continue to undergo – profound change, largely because of a confluence of four forces: the green movement, EC structural changes, EC regulations, and a reliance on public scrutiny.

**The Green Movement.** Formal green political parties – which now exist in Eastern Europe as well as in the more developed West – are only the tip of the advocacy iceberg. Throughout Western Europe, environmental consumer advocacy groups have grown so politically influential that they represent a force with which industry must deal, whether on an adversarial or a cooperative basis. Moreover, on the consumer level, a product's „environmental friendliness“ has become an important purchasing criterion for a growing portion of the European population, especially in England, the Netherlands, Switzerland, and Germany. Green consumerism first appeared in the Netherlands (in the form of a boycott of CFC-containing aerosols) and West Germany (as evidenced by the success of environmental consumer magazines that operated their own analytical laboratories).

The first and most successful green-labeling scheme was introduced in West Germany in 1977. Upon recommendation by an independent jury, the country's environmental agency certifies a product's environmental friendliness by permitting it to carry the United Nations Environment Program's „Blue Angel“ seal of approval. In all, the West Germans have awarded the Blue Angel seal to more than 3,000 European products. The EC is planning its own green label based on the Blue Angel concept.

**EC Structural Changes.** Changes in the EC's institutional structure have made it better able to respond to public demands regarding the environment. Under the 1987 amendments to the Treaty of Rome, which serves as the EC Constitution, the EC's members agreed to abide by the decisions of a qualified majority rather than a unanimous vote on many environmental issues. We expect the rule of qualified majorities to be extended to most environmental issues in the near future. The 1987 amendments also shifted decision-making power from the European Council and the European Commission to the European Parliament. Being a popularly elected legislative body, the European Parliament is closer to public opinion than the prime ministers or heads of the 12 member states that make up the European Council. Furthermore, the European Parliament's influence is likely to increase significantly relative to the Council and the Commission during the next several years.

Another important institutional change is included in the 1987 amendments referred to as Title VII. Its farthest-reaching impact will probably come from its declaration that the environment will become a component of all the EC's other policies – including those covering regional development, agriculture, trade, research, and

industrial development. In addition, Title VII contains three principles that are aimed at making polluters pay for clean-up, prevent and control emissions at their sources rather than at the end of the pipe, and take preventive action to ensure public safety and environmental protection.

**EC Regulations.** In addition to its institutional changes, the EC has implemented some tough regulations and proposed even tougher ones for the future (Exhibit 2). Since 1972, the EC has issued more than 150 environmental directives. Of those enacted in the last 10 years, the 1982 Seveso Directive is one of the most prominent. In 1984, Seveso was followed by a directive on the transformer shipment of hazardous wastes, frequently called Seveso II, which regulates the shipping, labeling, manifesting, and tracking of hazardous wastes among EC countries.

## Exhibit 2

### Selected European Community Environmental Regulations – Existing and Proposed

<i>Year in Effect</i>	<i>Regulation/Description</i>
1979	<i>Dangerous Substances Directive (Sixth Amendment)</i> – imposed a pre-marketing procedure for testing, risk assessment, hazard notification, and labeling of new chemicals. In 1991, this directive was extended to require ecological risk assessment and communication.
1982	<i>Seveso Directive</i> – requires facility safety studies, hazard notification efforts, and emergency response plans.
1984	<i>Seveso II</i> – regulates shipping, labeling, manifesting, and tracking of hazardous wastes that cross EC internal borders.
1985	<i>Environmental Impact Assessment Directive</i> – requires environmental impact assessments for certain types of industrial energy and infrastructure projects.
1988	<i>Amendments to Liquid Discharge Directive</i> – specifies more stringent regulation of dangerous-substance discharges from industries.
1991	<i>Freedom of Access to Environmental Information Directive</i> – permits public access to government-held information on industries' environmental practices and performance.
1992*	<i>Hazardous Waste Liability Law</i> – will impose strict liability for damage caused by wastes during transportation, storage, and disposal.
1992*	<i>EC seal of environmental approval</i> – will identify environmentally responsible consumer products.
1992*	<i>Environmental auditing regulation</i> – will promote auditing and provide guidelines for its effective use.

\*Arthur D. Little estimates

Source: Arthur D. Little, Inc.

The EC's current Fourth Environmental Action Program sets out the Community's principles and priorities for the period 1987-1991. The program's four priority areas include preservation of the ozone layer, mitigation of the greenhouse effect, comprehensive regulation of hazardous wastes, and fighting tropical deforestation. Furthermore, within the next 12 months the EC is likely to approve a strict liability law concerning hazardous wastes. As mentioned above, it is also considering support for an EC-wide seal of approval for environmentally friendly consumer products.

In November 1989, the EC members voted to create a European Environmental Agency (EEA); despite delays, the agency is expected to begin work this year. The EEA will (at least initially) be limited to serving as a central information clearinghouse and a coordinator for national centers of environmental monitoring and evaluation.

Under the current plan, the EEA will have little or no enforcement power. However, we believe the EEA is virtually certain to receive substantially greater authority, much as the Environmental Protection Agency has in the United States, once it has been established.

**Reliance on Public Scrutiny.** As the EC grows in power and authority, Europeans express increasing concerns about the fact that the Community's laws and programs are adopted and administered in relative secrecy by institutions – the Council and the Commission – that have not been elected, have no popular mandate, and are not accountable to the public. Measures have been developed or are being considered to remedy this „democratic deficit.“ Prominent among these measures is the recently issued directive providing freedom of access to environmental information.

Moreover, growing public scrutiny of companies' environmental performance is likely to lead to increased litigation. The draft directive on hazardous waste liability will allow environmental advocacy groups, under certain circumstances, to sue waste producers for damages or for compensation of cleanup expenditures. Furthermore, any individual can file a complaint with the European Commission charging his or her government with violation of EC law. And just recently, the advocate general of the Court of Justice in Luxembourg, the Community's most influential law officer, decided that any citizen of the 12 member states has the right to claim damages for losses resulting from the failure to implement EC directives.

### **Reaching for the Highest Standards**

Multinational organizations will no longer be able to apply different environmental management standards in the various EC countries. Now that most citizens of the EC are growing accustomed to the idea of a single Community, any company that applies different standards runs the risk of a serious public image problem should this policy become public knowledge, or should an accident occur at one of the company's less-strictly-managed facilities. This risk persists whether or not the lower standard actually contributes to the accident. Moreover, during the next few years, the less-restrictive EC countries in southern Europe and elsewhere will be toughening their standards in order to comply with EC regulations. Also, a strict liability scheme will apply uniformly across the EC.

In many areas of environmental policy, Germany and the Netherlands can serve as benchmark countries for organizations interested in knowing what to expect from the EC's future programs regarding pollution prevention, control, and remediation. Manufacturers of consumer goods should also monitor the success of environmentally friendly products in order to gauge European consumers' willingness to reward environmentally responsible companies.

As in the United States, where individual state governments can augment federal environmental standards but cannot fall below them, EC standards will represent the floor for environmental policy. And even where policies are similar, enforcement may still vary from country to country, just as it does from state to state in the United States. Companies should consider EC regulations to be minimum standards, even in countries that do not enforce them regularly; otherwise, they will risk running afoul of a reform movement. Companies can become prepared for the region's ongoing changes only by considering seriously both the environmental regulatory developments in Europe as a whole and those in the continent's individual countries.

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