



## The EU Reform Treaty – Environmental Implications

### WHY IS THE REFORM TREATY RELEVANT TO THE ENVIRONMENT?

Environmental policy is one of the success stories of the EU. At its founding in 1957 the EU had no environmental dimension, but today the EU has some of the most progressive environmental policies in the world. EU legislation has played a vital role in habitat and species protection, river management, as well as dramatic improvements in air, water and beach quality.

However there is an immense amount still to do, both to meet existing EU targets and aspirations and to agree new targets and actions that will improve Europe's environment and the quality of life in Europe. Climate change is the most urgent of these challenges, and one that we must tackle effectively if we are to sustain growing prosperity and security.

These challenges can only be achieved in many areas through collective action by member states, both within Europe and through Europe securing agreement to global action on the environment. Europe has played an important role in the collective international response to climate change so far as well as positioning itself as a leader in global policy for sustainable development more generally.

The legal basis for EU environmental policy is laid down in the treaties and provides stronger protection for the environment than many Member States' constitutions. Any changes to the treatment of the environment within the Reform Treaty are therefore important for the future of Europe's environment, and the Union's ability to galvanise action beyond its borders.

This briefing sets out some of the key implications of the Reform Treaty for the EU's approach to sustainable development and climate change.

### IT STRENGTHENS THE EU OBJECTIVE OF SUSTAINABLE DEVELOPMENT

The Reform Treaty<sup>1</sup> contains some new and interesting language on sustainable development in its article on the Union's objectives (Article 3 of the TEU). This is more

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<sup>1</sup> The Lisbon Treaty or Reform Treaty is in fact a set of amendments to the two main treaties governing the EU: The Treaty on European Union (TEU) and the Treaty establishing the European Community (TEC). The second one will have a new name Treaty on the Functioning of the EU (TFEU).

detailed than the current text and in many ways offers some improvement. It provides that the EU 'shall work for the sustainable development of Europe' and promote 'solidarity between generations' rather than the current text which only speaks of the 'sustainable development of economic activities'.

The treaty also gives a strong legal mandate for the EU to pursue this objective of sustainable development not only within Europe but also in order to contribute to 'the sustainable development of the Earth'.

#### IT EMPHASISES CLIMATE CHANGE AND MAKES IT EASIER TO ADOPT GREENER ENERGY POLICIES

The Treaty has left the core treaty provisions (Articles 174-176 of the TEC) on environmental policy substantively unchanged. However, greater emphasis has been placed on the struggle against climate change which is now explicitly added to the objectives of EU environmental policy.

Perhaps more momentously, energy policy will formally become an area of 'shared competence' between the Union and the Member States, with its own specific chapter (Article 176a of the TFEU). This will empower the institutions to adopt Directives and Regulations not only for the sake of the internal energy market, but also to ensure security of supply and 'promote energy efficiency and energy saving and the development of new and renewable forms of energy'.

However, there is a crucial proviso that measures adopted under the new energy article 'shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply'. This limits the scope for ambitious EU initiatives on energy policy, including those with environmental goals. Although this wording is designed to protect national sovereignty in matters of energy policy, including, over the use of nuclear energy, many measures that would be relevant from a sustainable development perspective are bound to affect the choice between different sources of energy; in fact this is their very purpose. If there is a clear environmental rationale and strong political support for such measures, they could, however, still be adopted under Article 175(2) of the TFEU, provided unanimity can be reached within the Council.

#### CONSERVATION OF MARINE BIOLOGICAL RESOURCES CONFIRMED AS AN EXCLUSIVE EU COMPETENCE

The Reform Treaty fully integrates 'fisheries' into the Agriculture Chapter (Article 3 (1) of the TFEU). However, the explicit inclusion of the conservation of 'marine biological resources' under the Common Fisheries Policy, based on the existing case law of the European Court of Justice, may further shift responsibility for the protection of marine biodiversity in matters related to the Common Fisheries Policy from Member States to the EU. This may not unanimously be welcomed by the environmental community and

Member States which are more critical of the EU's track record on environmental integration in fisheries policy.

#### IT INCREASES THE POWER OF THE EUROPEAN PARLIAMENT

The Treaty increases the range of policies in which the European Parliament has co-decision powers, including for agriculture and fisheries (with some important exceptions). This logical extension of the democratic process could potentially have important implications in policy areas such as those with large ecological footprints. Although the European Parliament has traditionally been supportive of environmental policy, its views on agriculture have also been heavily coloured by the farming community and lobby groups. Therefore, the impact of this significant extension of the Parliament's powers is difficult to predict. On the other hand, these extended powers do not apply to certain measures with important environmental impacts, such as agricultural price support and fisheries quotas.

The Parliament will also be given real decision making power over the whole of the EU budget for the first time. The Reform Treaty abolishes the distinction between non-compulsory spending, on which the European Parliament has the final say, and compulsory expenditure (including Common Agricultural Policy expenditure), on which the Council has the final say. With the 2008/2009 review of the EU budget not far away the influence of the Parliament will become more apparent relatively soon.

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