

adaptation. The reader wonders whether restoration at the global level would fall within the ambit of mitigation or relate to geoengineering, whereas at the local level restoration seems the antithesis of adaptation (as adaptation supposes adjustments to new circumstances). Thus, Ronald Sandler highlights that ‘in the age of global warming, the ecological future is less likely to resemble the ecological past’ (p. 72), which makes restoration a highly futile attempt ‘to remake the world – trying (yet again) to adapt it to us, rather than us to it’ (p. 77). At the very least, as Andrew Light notes, ‘climatic change ... will challenge [restorationists’] practice’ (p. 105).

Over the last two decades – Gardiner notes in the Preface to *Essential Readings* – ‘little has changed’ (p. x). One theme, however, has largely disappeared from the discussion: development. In 1992, the UN Conference on Environment and Development declared that ‘the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations’.³ The word ‘development’ appears only in the indexes of two of the four books under review, as respectively ‘development threshold’ (*Essential Readings*, one occurrence) and ‘development challenge’ (*The Ethics of Global Climate Change*, one occurrence). Yet one comes to wonder how climate change could convincingly be addressed as an ethical issue in isolation from increasing global inequalities, or how fundamental inequalities resulting from decades or centuries of industrial activities in the West be omitted without compromising the discussion. The omission of development in the literature on climate ethics is arguably only the symptom of a growing communication gap between the West and the Third World – a gap that is likely to hinder any ambitious transnational agreement.

Benoît Mayer

National University of Singapore Faculty of Law, Singapore

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Environmental Policy in the EU: Actors, Institutions and Processes, 3rd edn,
edited by Andrew Jordan & Camilla Adelle
Routledge, 2013, 400 pp, £90 hb, £30.99 pb; ISBN 9781849714686 hb, 9781849714693 pb

The External Environmental Policy of the European Union: EU and International Law Perspectives,
edited by Elisa Morgera
Cambridge University Press, 2012, 442 pp, £78 hb; ISBN 9781107023826

Both of these books address European Union (EU) environmental policy, but the reader is well advised to look at the second half of both titles in order to truly understand the objective of their editors.

³ Rio Declaration on Environment and Development, UN Doc. A/CONF.151/26/Rev.1 (Vol. I), 14 Jun. 1992, available at: <http://www.un.org/documents/ga/conf/151/aconf15126-1annex1.htm>.

The volume edited by Andrew Jordan and Camilla Adelle approaches EU environmental policy from a political science, rather than a legal, perspective. It features 20 contributions by 21 different authors, though both editors also appear frequently as authors and co-authors (Jordan for six chapters, Adelle for five). Overall, the book has a very clear United Kingdom (UK) ‘biased’ perspective on EU environmental policy. Besides the UK, the authors come from the Netherlands, Belgium, and Germany, while scholars from Southern or Central/Eastern Europe are not represented. As the reviewer of this book, I should disclose my own contribution of the chapter on the EU Court of Justice. A further disclaimer is that this review is written from a lawyer’s perspective, not that of a political scientist.

The book addresses, in particular, students of political science. To facilitate reading, the editors have included in each chapter a summary guide, a box with key questions, and a guide to further reading. The literature lists that complete each chapter feature mainly references to English-written political science literature (in particular, Andrew Jordan with 47 references, Albert Weale with 22, and Christoph Knill with 13).

The 20 chapters are divided into five sections: Contexts, Actors, Policy dynamics, Future challenges and Conclusion. One might expect a book on EU environmental policy to identify the different problems of the environment, starting with the ‘big five’ – climate change, biodiversity loss, the omnipresence of chemicals (pollution), resource management and poverty eradication – and then tackling more specific problems such as water quantity and quality, air pollution, noise, and waste management. One might also anticipate such a volume to examine the EU’s response (or lack thereof) to these problems. However, Jordan and Adelle did not opt for this approach. Instead, the editors’ focus for this book is on the actors, institutions and processes that play a role in EU environmental policy matters. As a result of this approach – although throughout the book the reader obtains a fairly correct impression of the structure, functioning and interplay of the EU institutions and the kinds of processes that exist at EU level – long passages in various contributions are general in their description, or quite theoretical, and have little relevance for environmental policy *per se*. This is particularly noticeable in the chapters by, for example, Emmanuelle Schön-Quinlivan (Chapter 6, ‘The European Commission’), Sebastiaan Princen (Chapter 11, ‘Agenda Setting’), and Per Mickwitz (Chapter 15, ‘Policy Evaluation’).

Hence, this volume is not particularly instructive for those interested in the actual initiatives that the EU has undertaken with regard to any of the environmental problems mentioned above, the EU’s motivations for selecting one of a range of possible approaches, the success or failure rate of different courses of action, the alternative policies that could be adopted, or the lessons to be learned for the future.

The introductory chapters – ‘The Establishment of EU Environmental Policy’ (Chapter 2, by Christoph Knill and Duncan Liefferink) and ‘EU Environmental Policy after the Lisbon Treaty’ (Chapter 3, by David Benson and Camilla Adelle) – appear to have a British audience in mind in explaining what the EU is and how its institutions interact, before and after the most recent Lisbon Treaty amendments. The six EU environmental action programmes, adopted between 1973 and 2002, which are core pieces of EU environmental policy, are hardly mentioned, let alone analyzed;

the influence of key figures – for example, former Commissioners such as Stanley Clinton-Davis, Carlo Ripa di Meana, Ritt Bjerregaard, and Margot Wallström, and former top officials in the Directorate General (DG) Environment such as Michel Carpentier, Laurens Jan Brinkhorst, Jørgen Henningsen, Anthony Fairclough, and Stanley Johnson – remains entirely unmentioned. Moreover, the impact of the jurisprudence of the EU Court of Justice on the development of environmental policy is not assessed.

In their chapter, Knill and Liefferink identify three phases of EU environmental policy: 1972–87 (motivated by trade policy motives), 1987–92 (legal and institutional consolidation), and post-1992 (revision/update and weakening of the dynamic). It is difficult to endorse this classification. Before 1987, instruments such as the directives on bird protection, bathing water, environmental impact assessment, major accident hazards, drinking water, waste and hazardous waste, or industrial installations were not in the least motivated by trade considerations. Legally and politically, there was hardly a difference between the EU environmental policy before and after 1987. Whether 1992 is a turning point is also doubtful: considerable objections against environmental policy approaches existed right from 1972 onwards. The environmental policy makers always had to fight against strong objections, within the Commission and from the side of Member States. As this book rightly states, a consistent ally for strong EU environmental measures was the European Parliament (EP), as well as public opinion. Although this situation has remained unchanged since 1972 until today, this has not prevented the adoption of a wealth of EU legislation, even after 1992, on waste shipments and several waste streams, climate change and energy saving/efficiency measures, environmental liability and environmental crime, marine and fresh waters, noise, transparency issues (implementing the Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters (Aarhus Convention)⁴), flood prevention, etc. I see a much greater impact on EU environmental policy by the neoliberal policy that the EU Commission has promoted since the turn of the century, in particular, under President José Manuel Barroso.

Rüdiger Wurzel (Chapter 5, ‘Member States and the Council’) gives a useful introduction to the Council’s structure and activities. However, as with almost all other contributors to the book (in particular, Schön-Quinlivan in her contribution on the EU Commission), Wurzel does not discuss the fundamental aspect of EU environmental policy that the EU Commission and its DG Environment are obliged – and committed! – to work in the *general EU interest* (Article 17 Treaty on the European Union (TEU)),⁵ whereas the Member States meeting in the Council normally defend *national* interests. This distinction explains why legislative proposals, such as those on access to justice or on the protection of soil, are put forward by the Commission but rejected in the Council. Neither does Wurzel discuss the fact that the environmental policy in more than half of the Member States is made by the EU, or how this affects EU

⁴ Aarhus (Denmark), 25 June 1998, in force 30 Oct. 2001, available at: <http://www.unece.org/env/pp/welcome.html>.

⁵ [2010] OJ C 83/13.

policy. He does differentiate between the roles of large and small Member States. Finally, Wurzel does not address how the Council tries to short-circuit the EP by almost systematically fixing its own position on a Commission proposal before the EP has given its opinion. This occurs even though, under the Treaty on the Functioning of the European Union (TFEU),⁶ the Council should fix its position in the light of the opinions of the other EU institutions.

Chapter 9, 'Lobby Groups', by Camilla Adelle and Jason Anderson, deals only with environmental lobby groups; it relies heavily on secondary literature, and does not even give a complete picture. The important fact that, with the exception of Greenpeace, all groups that are mentioned receive subventions from the European Commission, and the impact this has on the policy of these groups, is not mentioned. Notably, the positive tone of this chapter might be influenced by the fact that Anderson himself works for an EU environmental NGO. In the next chapter, 'Business', Wyn Grant presents interesting reflections on the corporate sector, although these have limited bearing on business lobbying and policy in environmental matters at EU level.

Chapter 17, 'Governing with Multiple Policy Instruments' (by Jordan, Benson, Wurzel and Zito), rekindles the myth that the EU has a choice – or could have chosen in the past – between four policy instruments: regulation, market-based and informational instruments, and voluntary agreements. The authors note, with regret, that the institutions relied mainly on regulatory instruments. What this contribution overlooks is that, during the first three years of EU environmental policy (1972–75), a good number of (non-binding) informational instruments were launched but remained a dead letter, that all attempts to have EU eco-taxes unanimously adopted met fundamentalist objections, in particular by the UK, and that the voluntary agreement on carbon dioxide (CO₂) emissions in the automobile sector was an enormous flop and just delayed the adoption of binding rules by some 15 years. The authors do not discuss details of the EU policy, but rather measure that policy against their own parameter – a method which can be found in a number of contributions in this volume.

In the concluding Chapter 20 ('EU Environmental Policy at 40: Retrospect and Prospect'), Jordan and Adelle describe five policy challenges for the future: the use of policy instruments, the effectiveness (implementation) of EU environmental policy, the economic/financial crisis, the democratic legitimization of the EU, and the purpose of EU integration. Indeed, the full and correct application of adopted legislation is the biggest challenge facing (EU) environmental policy, though other policy sectors (such as consumer law, human rights, gender equality, and taxation) confront the same problem. In fact, none of the listed challenges are specific to EU environmental policy; they concern the future of EU policy and of the EU in general. As several other contributors also address general rather than environment-specific problems, the concluding chapter further underlines that the core contribution of the book is that it offers a good and clear introduction into EU actors, institutions and processes, with most of the concrete examples taken from the environmental sector. It offers students and others less familiar with the EU machinery useful

⁶ [2010] OJ C 83/47, e.g. Art. 294.

guidance and information on the Brussels scenery. A list of keywords and, particularly, the rich references to further reading make the book an important introduction to EU (environmental) policy.

Finally, notwithstanding the points of critique raised in this review, it should be mentioned that, to the best of my knowledge, there is currently no other political science book on EU environmental policy in any EU language. The editors rightly emphasize that a considerable number of points and chapters raised in the different contributions have hardly been discussed elsewhere in literature.

By comparison, *The External Environmental Policy of the European Union: EU and International Law Perspectives*, edited by Elisa Morgera, is less ambitious, as it is limited to some legal aspects of EU's *foreign* environmental policy. It assembles 14 contributions, grouped under the headings 'The EU Legal and Institutional Framework after Lisbon', 'Insights into EU Practice', and 'The EU and International Environmental Law'. The various authors know their subject well and present their arguments in a clear, comprehensible and transparent manner. The contributions are well documented and describe the factual aspects of the different topics quite comprehensively.

At the risk of doing an injustice to the many by singling out the few, I was particularly impressed by Hans Vedder's contribution (Chapter 1) on the tension between the ambitious objectives of EU climate change policy and the need to preserve the competitiveness of the EU economy; Riccardo Pavoni's Chapter 14 on the interaction between international and EU environmental law, in which Pavoni elaborates on the reserved (or, as Pavoni puts it, 'hostile') attitude of the EU Court of Justice towards international environmental law provisions and their direct effect within the EU; and the legal controversy between Matthias Buck (Chapter 4) and Jolyon Thomson (Chapter 5) on who should represent the EU in international environmental negotiations – the Commission or the Council Presidency. Buck goes so far as to opine that, at the end of the day, a European Court judgment will have to resolve this issue.

There is one point of criticism regarding the contributions: similar to Wurzel's omission of the Commission's obligation to serve in the general interest of the EU in *Environmental Policy in the EU*, the chapters in Morgera's book do not discuss the requirement of the EU's external environmental policy to preserve, protect and improve the environment at the global level. There is no discussion on why the EU still has not adhered to the European Convention on Human Rights (ECHR),⁷ more than four years after its commitment to do so in the Lisbon Treaty.⁸ Other issues that could have benefitted from discussion include:

- what the EU does to fight biodiversity loss at the global level (such as agriculture and fisheries policies);
- the EU's role in the development of corporate environmental responsibility of EU-based companies;

⁷ Rome (Italy), 4 Nov. 1950, in force 3 Sept. 1953, available at: <http://conventions.coe.int/Treaty/en/Treaties/Html/005.htm>.

⁸ Lisbon (Portugal), 13 Dec. 2007, in force 1 Dec. 2009; [2007] OJ C306/1.

- the EU's attempts to enhance the effectiveness of its development aid; and
- the EU's contribution to the development of 'sustainability' as a guiding concept for environmental policy, domestically and globally. Incidentally, the edited volume by Jordan and Adelle does contain a very pertinent analysis by Marc Pallemmaerts on this issue.

The latter observations do not take away from the overall message that Morgera's book constitutes a very helpful and interesting contribution to the discussion of EU foreign environmental policy. It is clearly written, has a keyword list and abundant literature references, and will give plenty of new insights to any reader. Hopefully, this positive assessment will encourage Elisa Morgera to publish more in the burgeoning field of EU external environmental policy. Indeed, many of the challenges which the environment faces are global in character. If it takes its commitment under the Lisbon Treaty seriously, the EU could make valuable and enhanced contributions to the environmental protection of this planet.

Ludwig Krämer
Derecho y Medio Ambiente, Madrid (Spain)
University College London (United Kingdom)
EU Aarhus Centre of ClientEarth, Brussels (Belgium)