



# Intergovernmental steps ahead a driver for effective integration of biodiversity and climate into environmental legislation ?

## EUROPEAN UNION AND UNITED STATES FEDERAL GOVERNMENT

### Two governing bodies providing incentives but with varying degrees of regulatory commitment.

The European Union and the United States federal system are two entities formed by a group of nations or states: The principle of primacy of the European legislation, and the resulting system of sanctions, provides the European Union with a significant amount of control and regulatory power over the activities of member states. In the area of environmental issues, this incentive-based approach essentially relies on directives that have made it possible to speed up the adoption of common objectives which must be transcribed into national law. However, their implementation varies from country to country, and the monitoring capabilities of the European Commission to detect misapplications or lack of implementation are restricted. The federal system in the United States is older, and its environmental legislation became more active in the 1960s. To take action, the federal government can use the supremacy clause or the power of preemption of Congress, which allow federal laws to prevail over state laws according to specific legislation. These principles are subject to constitutional review. Despite the introduction of federal laws and the creation of expert and management institutions/bodies (e.g. Environmental Protection Agency), the strict division of powers, enshrined in the constitution, has resulted in differences in interpretation among the states. Nevertheless compliance with federal laws is required. Therefore, environmental legislation is the result of negotiation and cooperation between federal and state levels, which gives rise to ongoing debate.

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# The evolution of legislation

## the progressive formulation of commitments and concrete action

### EUROPEAN UNION

#### A controlling and regulating authority

### THE UNITED STATES

#### A federal government in interaction with the states' rights

- European Summit in Paris** 1972  
Need for a community environmental policy and call for an action plan.
- The Birds Directive** 1979  
Kicks off the EU environmental policy.
- Introduction of an 'Environment Title' in the Single European Act** 1987  
The European Parliament strengthened by the establishment of a specific authority? in the environmental field.
- The European Environmental Agency (EEA)** is established to support the development, the implementation and the evaluation of environmental policy as well as informing the public. The Agency is responsible for providing reliable and independent information on the state and prospects of the environment. It coordinates the European Environment Information and Observation Network (Eionet). 1990
- Maastricht Treaty** 1993  
The environment becomes an official EU policy area.
- Treaty of Amsterdam** 1997  
Implementation of the greenhouse gas emissions (GHG) trading scheme and obligation to integrate environmental protection into sectoral policies.
- Treaty of Lisbon** 2009  
Combating climate change becomes a specific objective.
- Biodiversity strategy** 2011  
to halt biodiversity loss within the EU by 2020 and to protect, evaluate, assess and restore biodiversity and ecosystem services by 2050.
- Adoption of the 7th Environment Action Program : **Living well, within the limits of our planet** 2013
- Declaration of a state of climate emergency in Europe by the Parliament** which asks all Member States to commit to achieving zero GHG emissions by 2050. 2019
- Green Deal** : Roadmap that sets out the goals of carbon neutrality by 2050 (goal of reducing carbon emissions by 50-55% by 2030 compared to 1990 levels), decouple growth from resource use and development, and reduce greenhouse gas emissions by 40% by 2030. 2020

- 1899 Rivers and Harbours Act**  
Federal environmental law that controls the construction of bridges and other structures, and regulates sediment, pollution and discharge of refuse in navigable waters.
- 1963 Clean Air Act**  
Establishment of federal air quality standards for certain pollutants (particulate matter, ozone, sulfur dioxide, nitrogen oxides, carbon monoxide and lead).
- 1964 Wilderness Act**  
A system that protects federally managed wilderness areas designated to be preserved in their natural state. Establishment of management agencies affiliated with the National Wilderness Preservation System (NWPS): US Forest Service, US Fish and Wildlife Service, National Park Service and Bureau of Land.
- 1969 National Environmental Policy Act (NEPA)**  
An act requiring federal agencies to assess environmental impacts, particularly in public land development.
- 1970 Establishment of the EPA (Environmental Protection Agency)** : An independent agency of the federal government dedicated to studying, monitoring, and protecting environmental quality, nature and the health of US citizens.
- 1973 Endangered Species Act**  
Protection of endangered species and ecosystems to avoid damage by human activity.
- 1980 Superfund or Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)**  
On environmental risks and damages. The government has the power to identify and sanction those responsible for discharges of hazardous substances.
- 2005 Energy Policy Act**  
Tax incentives and loan guarantees for innovative GHG preventing technologies.
- 2008 US commitment to cut GHG emissions by half by 2050 at a G8 meeting in Japan**
- 2009 Congress passes the Clean Energy and Security Act**, which calls for a reduction in GHGs. The bill was adjourned in 2010 due to a lack of majority in the Senate.
- 2017 US exits the Paris Climate Agreement**, but returns in 2021.
- 2019-20 Affordable Clean Energy rule**  
Reduced cap on pollutant emissions and allowing drilling in protected areas. NEPA modernization rule: The rule was removed in 2021.