

Study on the Polluter Pays Principle

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Workshop Report

December 2023

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Europe

Study on the Polluter Pays Principle

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Workshop report

Prepared by RPA Europe consortium

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1 Introduction

The online workshop ‘The Polluter Pays Principle: Preliminary Findings of the Study Supporting the Fitness Check’ was organised in the context of the fitness check the European Commission is carrying out on how the ‘polluter pays’ principle (the ‘principle’) is applied in environmental policy. A Call for Evidence set out the mandate and process for this work¹.

The workshop is part of the ‘Study on the Polluter Pays Principle and Environmentally Harmful Subsidies’, which the European Commission (DG Environment) commissioned to RPA Europe, in collaboration with the Logika Group, Risk & Policy Analysts (RPA), Metroeconomica and the Centre for European Policy Studies (CEPS).

The study aims to support the European Commission in gathering and analysing information for two interrelated work-streams:

- The fitness check of the implementation of the principle in the EU environmental legislation; and
- The development of a methodology for monitoring and reporting on non-energy environmentally harmful subsidies.

The fitness check is partly a response to the findings of the European Court of Auditors. In its special report on the polluter pays principle², the European Court of Auditors concluded that the principle is applied to varying degrees across environmental legislation and issued three recommendations to improve its application:

- Recommendation 1: Assess the scope for strengthening the integration of the principle into environmental legislation.
- Recommendation 2: Consider reinforcing the application of the Environmental Liability Directive.
- Recommendation 3: Protect EU funds from being used to finance projects that should be funded by the polluter.

In the Zero Pollution Action Plan³, the European Commission announced that it would respond in 2024 with recommendations based on the ongoing fitness check.

For additional information on the study supporting the fitness check, please consult the workshop background paper.⁴

The online workshop focused on the emerging findings of the study supporting the fitness check. It was the second online workshop foreseen in the supporting study as a part of stakeholder consultation activities. The workshop pursued several objectives:

- To share information about the study and validate its findings, and
- To get feedback, insights and suggestions relevant to the study.

¹ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13546-Polluter-Pays-Principle-fitness-check-of-its-application-to-the-environment_en

² https://www.eca.europa.eu/Lists/ECADocuments/SR21_12/SR_polluter_pays_principle_EN.pdf

³ https://environment.ec.europa.eu/strategy/zero-pollution-action-plan_en

⁴ Available at: https://www.rpa-europe.eu/files/ugd/b48dda_022d8d0f165b4c5aafd79093977dee2e.pdf

The workshop also featured a presentation by the European Commission to inform of the ongoing development of the methodology for the identification and reporting of non-energy environmentally harmful subsidies.

This report provides the event proceedings, detailing stakeholder participation, and outlining the main topics of discussion (identified using thematic analysis, a qualitative method for distinguishing major patterns and themes in textual information).

The workshop was held online through Cisco Webex on 20 November 2023, starting at 9:30 CET and concluding at 13:00 CET.

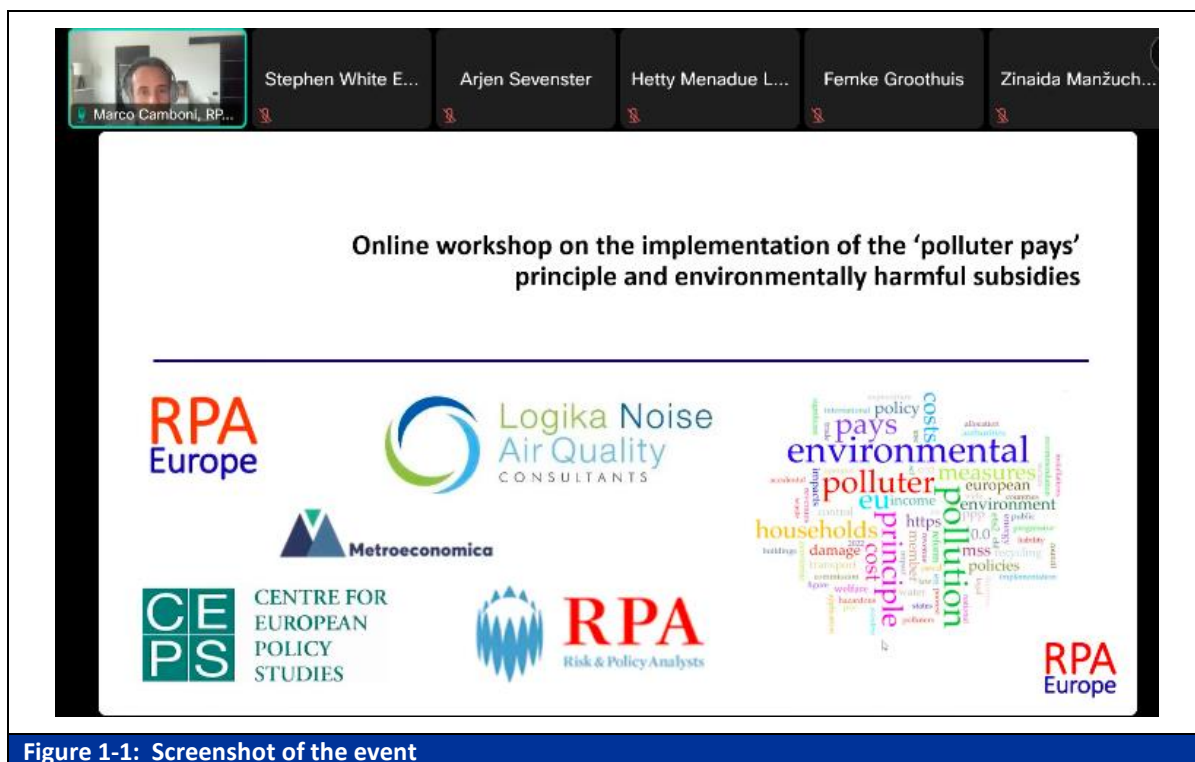


Figure 1-1: Screenshot of the event

The workshop agenda included a) two presentation sessions focusing on the supporting study of the fitness check and guidance for reporting environmentally harmful subsidies and b) two discussion sessions covering the implementation of the ‘polluter pays’ principle and lessons learned and areas for improvement.

Timing		Agenda item
Introduction to the study and preliminary findings		
09:00 – 09:30	30 mins	Registration
09:30 – 09:35	5 mins	Welcome and housekeeping rules (Marco Camboni, RPA Europe)
09:35 – 09:45	10 mins	Welcome message from the Commission (Steven White, DG Environment)
09:45 – 09:55	10 mins	Study overview: objectives, methodology and consultation activities (Marco Camboni and Zinaida Manžuch, RPA Europe)
09:55 – 10:15	20 mins	What is the state of play of the implementation of the polluter pays principle? (David Tyrer, Logika)
10:15 – 10:25	10 mins	Q&A
10:25 – 10:45	20 mins	Highlights of the evaluation study findings (Logika)
10:45 – 10:55	10 mins	Q&A
10:55 – 11:20	25 mins	Break
Ensuring that the polluter pays		
11:20 – 11:30	10 mins	Review of the findings relevant to the discussion (Logika)

Timing		Agenda item
11:30 – 12:00	30 mins	Thematic discussion “Ensuring that polluters pay” (moderated by Zinaida Manžuch, RPA Europe), invited experts – Femke Groothuis (the Ex’tax Project Foundation) and Anil Markandya (Basque Centre for Climate Change) Discussion questions: <ul style="list-style-type: none"> • Does the polluter pay? In those instances when the polluter does not pay (partially or fully), what are the causes? • What costs are usually not borne by the polluter? • Can the wider application of environmental taxes ensure that polluters pay?
Information session: Environmentally Harmful Subsidies (EHS)		
12:00 – 12:15	15 mins	Guidance for Environmentally Harmful Subsidies (EHS) reporting (Stephen White, DG Environment)
12:15 – 12:25	10 mins	Q&A
Thematic discussion: Lessons learned and areas for improvement		
12:25 – 12:30	5 mins	Summary of key issues and possible ways forward (moderated by Zinaida Manžuch, RPA Europe)
12:30 – 12:50	20 mins	Open discussion
12:50 – 13:00	10 mins	Wrap up

The **presentation sessions** contained the following:

- A brief introduction to the workshop by Marco Camboni (RPA Europe, project manager) and a welcome message from Steve White (European Commission DG Environment), Marco introduced the purpose and scope of the study, and Zinaida Manžuch (RPA Europe) provided an overview of the stakeholder consultation activities and presented some of the results from the public consultation held between May and August 2023.
- David Tyrer (Logika Group) followed by providing an overview on the state of play of the ‘polluter pays’ principle implementation in the EU. The analysis focused on the implementation of the principle in individual pieces of legislation and by policy area, economic sector, and the implementation of the principle in EU funds.
- Hetty Menadue (Logika Group) discussed the emerging findings of the evaluation analysis, which was carried out according to the Commission’s Better Regulation Guidelines and structured around the five evaluation criteria: effectiveness, efficiency, relevance, coherence, and EU added value.
- Stephen White (European Commission, DG Environment) presented the ongoing work on the Environmentally Harmful Subsidies guidance.

The discussion sessions included the following:

- The thematic discussion ‘Ensuring that polluters pay’ followed a panel discussion format and involved invited experts: Femke Groothuis (the Ex’tax Project Foundation) and Anil Markandya (Basque Centre for Climate Change). The experts and participants were encouraged to explore the factors influencing how the principle is implemented (e.g. failures in fully applying the principle, types of costs not borne by the polluter), what role environmental taxes could have, and which are the best candidates.
- The open discussion ‘Lessons learned and areas for improvement’ was based on the stakeholders’ feedback to the public consultation ‘Polluter Pays Principle – fitness check of its application to the environment’. Stakeholders highlighted issues related to the implementation of the PPP, including specific measures and implementation requirements in certain legal acts, exemptions and derogations, diffuse pollution and legacy pollution, the granularity of the PPP-related definitions and the use of the EU and national funds. Some

stakeholders also suggested potential solutions to the identified issues, including operationalisation of the PPP in the relevant legislation, improving/expanding the Extended Producer Responsibility schemes, and working on preventive measures. The workshop participants were invited to reflect and provide more insights on the issues and solutions related to the implementation of the 'polluter pays' principle.

After the discussion sessions, the study team wrapped up the workshop by summarising key messages and informing the audience of the next steps.

2 Target audience

2.1 Event dissemination activities

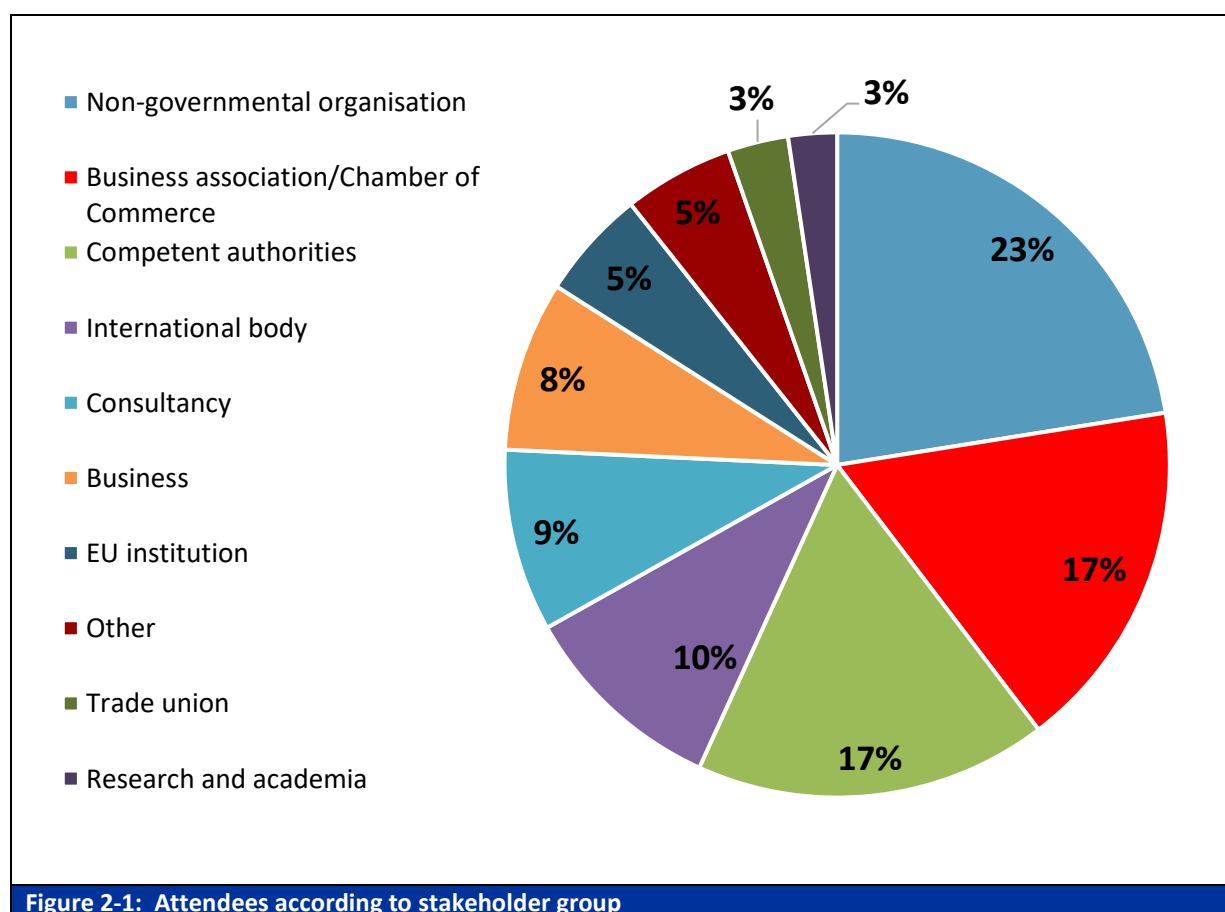
Invitations to participate in the workshop were sent by email to 979 contacts from Member State competent authorities, trade and industry associations, companies, non-governmental organisations and research institutions with knowledge and practical experience on the 'polluter pays' principle implementation.

In addition, the workshop was promoted through posts on the consortium members' LinkedIn webpages and reposted by members of the study team and by attendees.

2.2 Participation in the event

A total of 253 people registered for the event, with 169 participants (over 60%) joining on the day. Attendees were from competent authorities, EU institutions, international bodies, industry and trade associations, private companies, non-governmental organisations, researchers, consultants, and members of the study team. Three attendees did not provide their affiliation and country of operation and are therefore excluded from the statistics below. The list of participants' affiliations is provided in Annex 1.

The event was attended by representatives of all target audience groups (see Figure 2-1).



Business associations participating in the event represented several sectors, including waste management and recycling, environmental services, chemical manufacturing, providers of raw materials (steel, aluminium), manufacturing (building materials, textiles), energy and bioenergy, water services, insurance and financial services.

Companies in attendance included energy and electricity suppliers, waste management enterprises, packaging companies, consultancies, insurance companies, law firms, and manufacturers.

A total of 22 countries were represented during the workshop. This number included twenty EU Member States, and 2 non-EU countries: UK and Norway. Figure 2-2 shows the number of participants attending the event based in Europe, excluding the 48 attendees based in Brussels and operating at the EU level (representatives of EU institutions, European industry associations and pan-European NGOs).

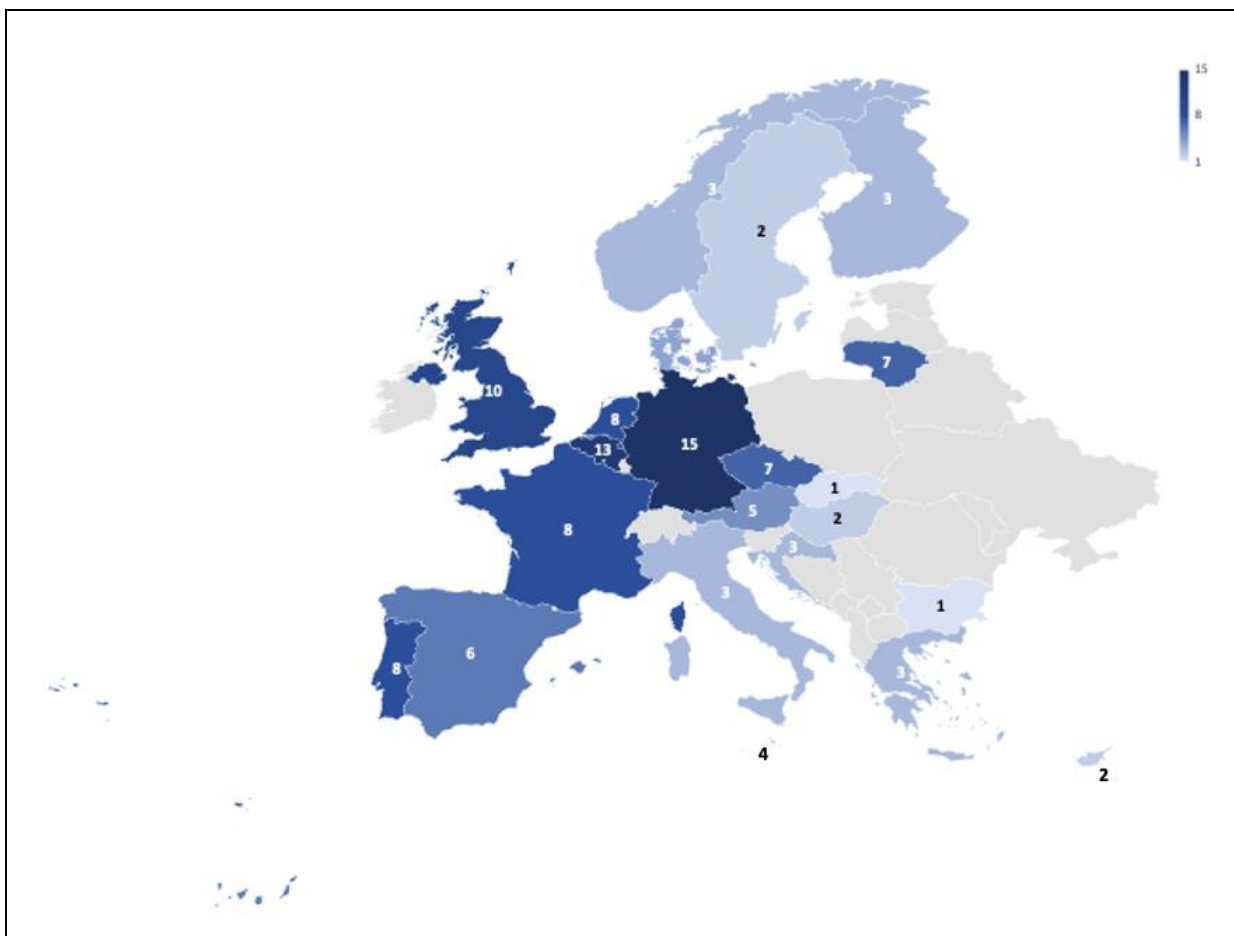


Figure 2-2: Attendees according to their countries of residence (operation)

3 Workshop discussions

3.1 Thematic discussion ‘Ensuring that polluters pay’

For the **first discussion** ‘Ensuring that polluters pay’, the study team proposed a set of questions:

- Does the polluter pay? In those instances when the polluter does not pay (partially or fully), what are the causes?
- What costs are usually not borne by the polluter?
- Can the wider application of environmental taxes ensure that polluters pay?
- Are there successful examples of the implementation of environmental taxes in the EU?

To encourage the conversation, the study team gave a brief overview of the emerging study findings related to the questions. The participants were invited to speak about the sectors/policy areas of the principle implementation they were most familiar with. The main themes that emerged in the discussion are summarised in the text, while examples of the participants' feedback are provided in text boxes.

According to participants, the **‘polluter pays’ principle is currently not (sufficiently) applied in certain areas**. In the discussion, various sectors were mentioned, e.g., drinking water supply, aquaculture (shellfish farming), transport, ship recycling, energy, etc.

According to the respondents, one of the factors causing issues in the principle application is the **absence of specific measures** and implementation requirements in relevant legislation and individual legal acts. Additionally, challenges in implementing the principle may emerge from discrepancies between official documents, such as permits, and current environmental standards or regulations. These documents may potentially misalign with the latest environmental norms.

Example

The Ship Recycling Regulation and the Waste Shipment Regulation, which address the disposal of end-of-life vessels, allow for the circumvention of the 'polluter pays' principle. This is because these regulations do not govern the waste owner directly but are based on the ship's flag state or its location at the time the decision to scrap is made.

Some participants emphasised that issues such as **legacy pollution**, **chronic pollution** and **diffuse pollution** represent a challenge for the correct and full application of the principle. However, it was also underlined one can learn from the experience of implementation of the Single-Use Plastics Directive and, in the future, the Urban Wastewater Treatment Directive.

Other attendees recognised the importance of clarifying and **standardising definitions and criteria** found in key pieces of legislation, including defining who the polluter is.

Example

In the transport sector, it is important to define who the polluter is, in order to understand whether responsibility of pollution falls on the oil company producing and marketing the petrol, or on the user (i.e. the person driving the vehicle).

In the participants' view, **treatment, administrative and monitoring costs** are often not covered by the polluter.

- From the perspective of some participants, **treatment costs** under water and waste legislation are often borne by operators and citizens, rather than by the polluters.

Example: Drinking Water Directive

The costs incurred by drinking water suppliers to ensure compliance with the values defined in the Drinking Water Directive (Annex 1, Part B of Directive 2020/2184) or requirements of national drinking water standards are not covered by the polluters. Treatment costs are increasing due to pollution of drinking water resources with substances from pharmaceuticals and cosmetic products. The treatment costs are not currently borne by the producers but by the drinking water operators, and are then usually passed on to the water consumers through higher fees and taxes.

Example: Urban Wastewater Treatment Directive

In shellfish production, for example, particularly in France, the expenses related to water treatment are consistently borne by shellfish farming producers rather than polluters responsible.

- **Some participants provided examples of administrative costs for monitoring** not borne by the polluters.

Example: Ship recycling

In the ship recycling sector, the administrative cost for monitoring and enforcing legislation is borne by the public authorities, and there is no clear legislation for remediation of negative impacts on the environment and human health.

Example: Shellfish farming

In the case of shellfish farming, producers are now working on developing monitoring tools to detect viruses in their production waters (e.g. norovirus) – but it should not be up to them to support the costs of such monitoring.

Speaking of **environmental taxes**, the importance and effectiveness of such taxes (also known as 'green taxes') were stressed by several participants. Some participants recommended an increase in green taxes and their harmonisation across the EU⁵.

Example: Landfill tax

In the Flemish region in Belgium, after the introduction of a sufficiently high landfill tax, a strong migration away from landfilling towards recycling has been observed.

In addition, there was a suggestion to establish an **EU-wide database** illustrating which environmental taxation, pricing mechanisms and other instruments are implemented or foreseen for the future in each Member State.

⁵ Successful examples of implementation of environmental taxes/reducing environmentally harmful subsidies can be found here: <https://theecologist.org/2023/mar/27/abolish-fossil-fuel-tax-breaks>

3.2 Open discussion ‘Lessons learned and areas for improvement’

The **second discussion** ‘Lessons learned and areas for improvement’ built upon the outcomes of the first discussion and encouraged the workshop participants to elaborate on the top five issues in the implementation of the ‘polluter pays’ principle and the top five solutions to these issues. As a starting point for discussion, the study team presented the results of the analysis of the position papers received through public consultation, which provided several issues related to the implementation of the principle and possible solutions. Participants were invited to identify which issues or solutions should be added or removed from the starting list, and which should be given priority over the others.

Participants mentioned several issues and potential solutions to improve the application of the principle and identified many sectors and specific pieces of legislation where the principle is not fully applied.

Issues

Asked to reflect on the top five issues in the principle implementation, some participants noted that a fundamental challenge lies in the **absence of a sense of urgency**, with a **lack of prioritising the collective well-being of the population** and of the **businesses that have clean technologies and clean ways of producing**. Moreover, there is often a focus on short-term implications, rather than on the **long-term perspective** and the way environmental issues are addressed in taxation systems. For instance, one participant emphasized that current high labour taxes prevent a smooth transition to the circular economy, putting businesses that are engaged in circular applications at a competitive disadvantage due to their labour and knowledge intensiveness.

According to some participants, a **lack of focus on the use of revenues** such as those generated through the Emissions Trading System (ETS) is also problematic.

Several attendees underlined the issue of **subsidies**, e.g. fossil fuel subsidies, and **free allowances** granted under different pieces of legislation and schemes. Under the Emissions Trading System 1, for example, subsidies are still granted, and free allowances are still given to the industry sector.

The **use of EU funds** to finance projects that should be paid for by the polluter was mentioned as a relevant issue. A participant highlighted that often EU funds are employed on the national level instead of making the polluter pay.

Solutions

It was highlighted by some participants that **priority should always be given to preventive measures and control-at-source measures**. This was identified as the most effective and efficient solution from a societal point of view (e.g. taking downstream measures such as additional drinking water treatment requires more resources and is more energy-intensive and costly than applying preventive measures).

Some attendees believed that **Extended Producer Responsibility (EPR) schemes** should be developed alongside preventive measures, and should be extended to additional sectors and pollutants (e.g., PFASs). They should also be designed by using eco-modulated fees. Participants believe EPRs can be a solution to tackle issues such as diffuse pollution and pollution caused by multiple polluters (e.g. emissions and discharge into water bodies such as rivers).

Among the tools mentioned to improve the effectiveness of the PPP application were the consistent **tracking of external costs of each sector** across the EU, **checking whether new legislation covers the**

principle before it comes into force, and developing a coherent roadmap for achieving the EU goals in terms of carbon neutrality and circular economy.

Attendees mentioned that investments should be channelled into **public awareness raising**, as effective communication and awareness about the polluter pays principle are crucial for its successful implementation.

Participants recommended focusing on trade policy as well, to make sure that **products imported in the EU are compliant with environmental rules** through market surveillance authorities and customs control. In this context, it was suggested that the Carbon Border Adjustment Mechanism (CBAM) should be extended to all markets facing international competition from outside the EU.

3.3 Conclusions and next steps

The workshop generated substantial interest among stakeholders. Over sixty percent of registered stakeholders attended the event resulting in more than 160 participants from twenty EU Member States and two non-EU countries. The participants represented all nine stakeholder groups identified by the study team as concerned with the implementation of the polluter pays principle in the EU.

Several themes were prominent in the discussion:

- **Lack of application of the principle in specific areas/sectors due to gaps in legislation.** Participants brought forward many examples of pieces of legislation in different sectors where the principle is not fully or correctly applied, in particular regarding treatment and administrative costs.
- The participants elaborated on the **lack of a strategic approach** to achieving the environmental targets by employing the 'polluter pays' principle.
- **Focus on prevention and producers' responsibility.** Attendees highlighted the need to prioritise preventive measures as well as control-at-source measures.
- **The potential of environmental taxes** was discussed.

Based on the workshop discussions, the study team collected information and examples to validate the results of the analysis, the evidence collected and the emerging conclusions.

The study team informed participants of the next steps, which will entail the finalisation of public consultation activities (end of 2023) and the publication of the final report of the "Study on the Polluter Pays Principle and Environmentally Harmful Subsidies" (beginning of 2024).

Annex 1 List of participating organisations

Table 1-2: List of participating organisations		
Organisation name	Country	No. of participants
Ad-Hoc Industry Natural Resource Management Group	EU	1
Altri Group	Portugal	2
AnimalhealthEurope	Belgium	1
Aqua Publica Europea	EU	1
ARC	Denmark	1
ArcelorMittal	Belgium	1
Association of the European Self-Care Industry (AESGP)	EU	1
Austrian Association for Building Materials and Ceramic Industries	Austria	1
AXIS Capital	United Kingdom	1
Basque Centre for Climate Change and Metroeconomica	Spain	1
Bioenergy Association of Finland	Finland	1
Black Sea Basin Directorate	Bulgaria	1
Bundesverband Glasindustrie e.V. (BV Glas)	Germany	1
CAN Europe	EU	1
Carbon Market Watch	EU	1
CEFIC	EU	2
Celanese	Belgium	1
Celbi S.A.	Portugal	3
Center for Environmental Policy (AAPC)	Lithuania	1
Centre for European Policy Studies (CEPS)	EU	1
Centre for Research and Technology Hellas (CERTH)	Greece	1
Charles University Environment Centre	Czech Republic	1
CIPA	France	1
Citizens' Climate Europe	United Kingdom	1
Clean Air Action Group	Hungary	2
Coalition Clean Baltic	Sweden	1
Comité National de la Conchyliculture (CNC)	France	1
Community of European Railway and Infrastructure Companies (CER)	EU	1
Confederation of Danish Industry	Denmark	1
Confederation of European Waste-to-Energy Plants (CEWEP)	EU	1
COTANCE	EU	1
Croatian Customs Administration	Croatia	1
Czech Environmental Information Agency (CENIA)	Czech Republic	2

Table 1-2: List of participating organisations		
Departement Omgeving, Vlaamse Overheid	Belgium	1
Department of Environment	Cyprus	2
Deutscher Naturschutzring (DNR)	Germany	1
DGT	Portugal	1
Dow	Netherlands	1
DS Smith	Portugal	1
Ecopreneur.eu	EU	1
Environment and Resources Authority (ERA)	Malta	1
Equinor	Norway	1
ESC	Netherlands	1
Euracoal	EU	1
EurEau	EU	1
EuRIC	EU	1
EUROFER	EU	1
Eurometaux	EU	1
European Aluminium	EU	1
European Association of Sugar Manufacturers (CEFS)	EU	1
European Carbon and Graphite Association (ECGA)	EU	1
European Commission	EU	10
European Compost Network (ECN)	EU	1
European Environment Agency (EEA)	Denmark	1
European Environmental Bureau (EEB)	EU	7
European Federation of insurance and financial intermediaries (BIPAR)	EU	1
Fachverband Mineralwolle eV (FMI)	Germany	1
Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection (BMUV)	Germany	2
Fédération Nationale des Activités de la Dépollution et de l'Environnement (FNADE)	France	2
Federation of European Risk Management Associations (FERMA)	EU	1
Frank Bold	Czech Republic	1
FuelsEurope	EU	1
Fundación Nueva Cutlura del Agua (FNCA)	Spain	3
German Association of Energy and Water Industries (BDEW)	Germany	1
German Chemical Industry Association (VCI)	Germany	1
German Insurance Association (GDV)	Germany	1
Government of Flanders- Department of Environment and Spatial Development	Belgium	1
Green Fund	Greece	1
Green MT	Malta	1

Table 1-2: List of participating organisations		
Howden Group	Germany	1
International Association of Oil and Gas Producers (IOGP) Europe	EU	1
IAWR, ERM Coalition, Stadtwerke Karlsruhe	Germany	1
Independent	United Kingdom	1
Inova DE GmbH	Germany	1
International Sava River Basin Commission	Croatia	2
Internationale Kommission zum Schutz des Rheins (IKSR)	Germany	1
Italian Institute for Environmental Protection and Research (ISPRA)	Italy	1
Law and Wildlife	EU	1
Logika Group	United Kingdom	2
Metaltechnology Austria	Austria	1
Metroeconomica	Spain	1
Ministry of Environment	Lithuania	2
Ministry of Environment and Climate Action	Portugal	1
Ministry of Environment and Energy	Greece	1
Ministry of Finance	Czech Republic	1
Ministry of the Environment	Finland	1
Ministry of the Environment, Energy and Enterprise	Malta	1
Nature and Biodiversity Conservation Union (NABU)	EU	1
New Water Culture Foundation	Spain	1
None	Belgium	1
Norsirk	Norway	2
Observatoire du principe pollueur-payeur	France	1
Ökopol	Germany	1
Organisation for Economic Cooperation and Development (OECD)	France	1
OVAM	Belgium	2
Proman Management GmbH	Austria	1
RECUPEL	Belgium	1
Risk & Policy Analysts (RPA Ltd)	United Kingdom	2
RIWA-Rijn	Netherlands	1
ROCKWOOL Group	Denmark	1
RPA Europe	Italy, Lithuania	5
Shipbreaking Platform	EU	1
Slovenske elektrarne, a.s.	Slovakia	1
SPF Santé	Belgium	1
Stevens & Bolton LLP	United Kingdom	1
Strategic Advisory Council Milieu- en Natuurraad van Vlaanderen	Belgium	1

Table 1-2: List of participating organisations		
Swedish Water Authority of the South Baltic Sea Water District	Sweden	1
Textile Association Germany	Germany	1
The Energy & Water Agency	Malta	1
The European consumer voice in standardisation (ANEC)	EU	1
The Ex'tax Project	Netherlands	1
The International Group of P&I Clubs	United Kingdom	1
Transdev	France	1
Transitiecoalitie Voedsel	Netherlands	1
Transport & Environment	EU	1
Umweltdachverband	Austria	1
Unknown	Unknown	3
Vapenka Certovy schody, a.s.	Czech Republic	1
VinylPlus	France	1
Vlaamse Overheid - Departement Omgeving	Belgium	1
VšĮ Šiaulių regiono atliekų tvarkymo centras	Lithuania	1
Wageningen University	Netherlands	1
WasteVision	Netherlands	2
Water Supply and Sewerage Association of the Czech Republic (SOVAK ČR)	Czech Republic	1
Wirtschaftskammer Österreich	Austria	1
Wirtschaftsvereinigung Stahl	Germany	1
WWF EPO	EU	1
Yara International ASA	Finland	1
Zero Waste Europe	EU	1
Zoetis	United Kingdom	1



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