

# A New Regulatory Design used by the EU

*With the promotion of renewable energy as an example*

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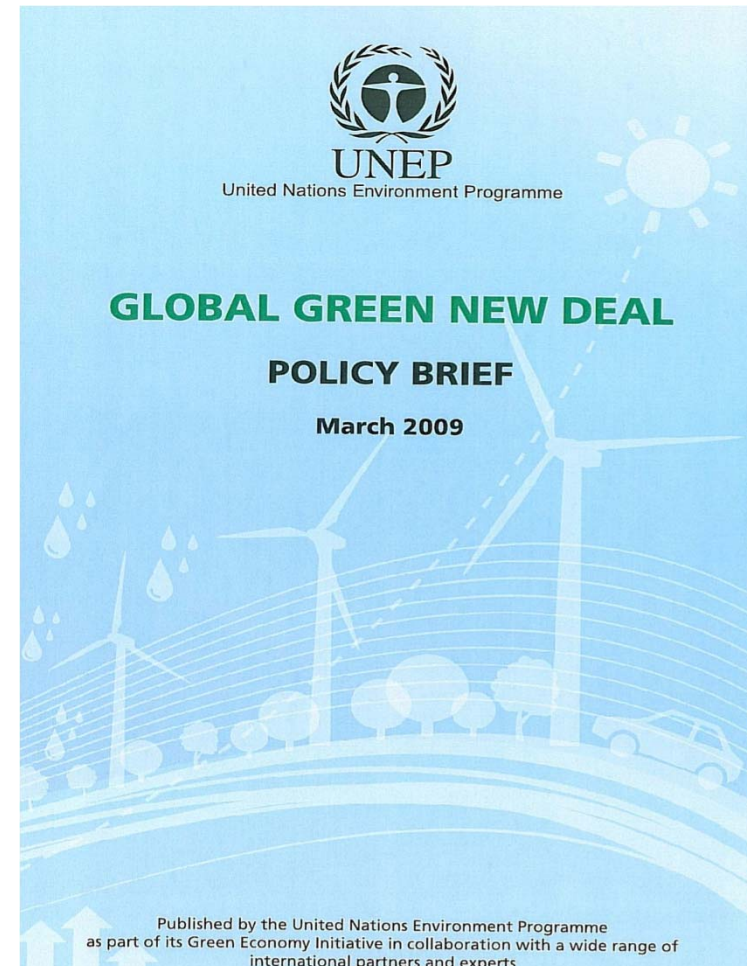
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# A Regulatory Design based on Sustainability

- **The constitutional protection of rights and values**
- **The goals of the relevant legal acts (directives)**
- **The regulatory perspectives and reasoning behind the regulation**
- **The organizational framework and procedural regulations**
- **The mandatory and/or optional instruments to be used**
- **The definition of different terms, scientific factors and criteria**
- **The principles steering the decision-making process, used e.g. to ensure synergies between the goals of individual directives**

# Part of a Global Green New Deal

- From a brown to a green economy
- The RES-Directive leaves considerable autonomy to the MS
  - Shared competences
  - Principle on subsidiarity and proportionality
- Cooperation mechanisms
- Different market instruments can be used



# The polluter pays principle

an obligation for the EU institutions to ensure economic efficiency, equitable distribution of costs and to put requirements on the MSs to make regulatory systems demanding the operators to include the costs of the emissions from conventional energy production into the prices of energy production



# Promotion of RES

- Mandatory national overall targets and measures for the use of RES
- **The principle of integration**
- Regulating all RES-sectors
- Solidarity mechanisms to promote sustainable development
- Interplay with other directives
  - Part of the Climate and Energy Package (October 2008)
  - Connected to the Third Legislative Package (January 2008)
  - Interaction with a new initiative on energy efficiency



# Nationality or EU harmonization?

- It is crucial in assessing the regulatory design to look at the treaty provision, which was used for the adoption of the RES-Directive
- **A dual legal basis:**
  - **(1) an overall high ranking of the environment through minimum harmonization - allowing MSs to go further**
  - **(2) sustainability criteria of importance for fulfilment of the international commitments on reduction of GHG's as well as the commitments on protection of biodiversity**



# Sustainability criteria for biofuels and bioliquids

## Greenhouse gas emission saving

from use of land with (1) high biodiversity value, (2) high carbon stock or (3) peat land

## Agricultural raw materials in the EU –

standards under provisions referred to under the heading “Environment” in Council regulation establishing support schemes for farmers



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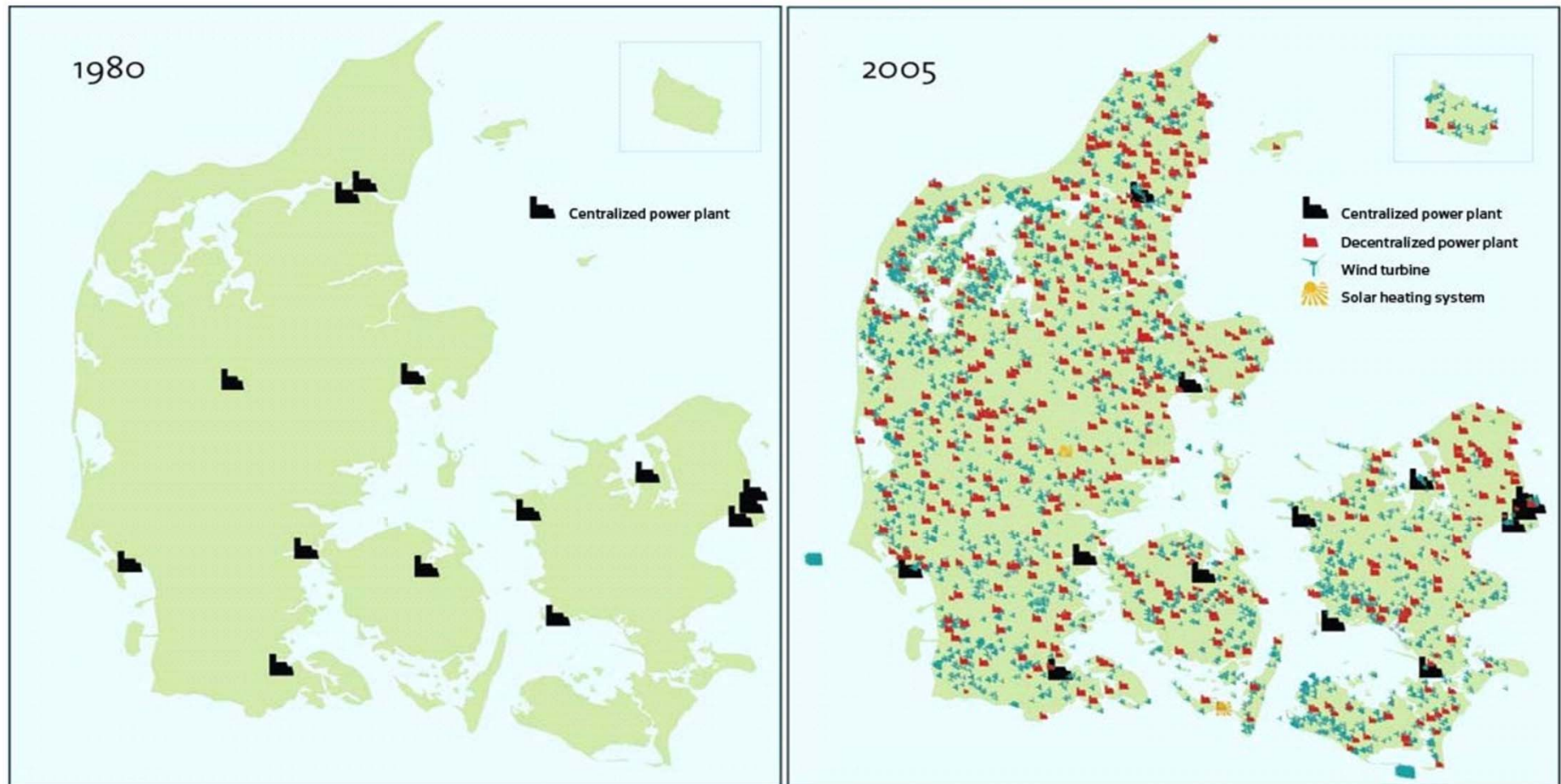


# Regulatory barriers

- RES-Directive Art. 4 and Art. 13: **the Directive requires MSs to conduct an assessment of their own legislation, administrative procedures, etc.**
- They must implement systems that reduce the regulatory barriers to the promotion of RES
- MSs are encouraged to involve local authorities in establishing local targets for RES share in the overall energy consumption etc.
- COM(2010) 543 final: "Smart Regulation"



# Energy production – how?



# "Smart grids" and the future regulatory design



# The NIMBY-approach

The RES-Directive refers to the procedural rights on environmental information – cf. the Aarhus Convention

The initiatives taken are not only in the hands of the Member States, but also a matter of initiatives from “Smart Cities” and business.

Picture: Middlesex Wind Action Group





# Denmark's RES action plan

European Renewable  
Energy Council (EREC)  
"Mapping Renewable  
Energy Pathways  
towards 2020. EU  
Roadmap", March 2011,

P. 40: "*The Danish  
Government based its 2020  
projections for renewable  
energy on a "frozen policy"  
scenario ...".*



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