

**Kazakh Ablai Khan University of International Relations and
World Languages**

The Polluter pays Principle

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Outline

- ❑ What is Polluter Pays Principle (PPP)?
- ❑ Historical background
- ❑ Functions of Polluter Pays Principle (PPP)
- ❑ Substance of PPP
- ❑ PPP in International Law
- ❑ PPP in National Law
- ❑ Instruments to implement PPP
- ❑ Conclusion
- ❑ References

What is Polluter Pays Principle (PPP)?

The Polluter Pays Principle (PPP) is an environmental policy principle which requires that the costs of pollution be borne by those who cause it. In its original emergence the Polluter Pays Principle aims at determining how the costs of pollution prevention and control must be allocated: the polluter must pay.

Historical background

- ❑ PPP first mentioned: Recommendation of the OECD of 26th May 1972
- ❑ Reaffirmed in recommendation of 14th November 1974
- ❑ EU: First Environmental Action Program (1973-1976)
- ❑ Since 1987: EC Treaty
- ❑ 1992: Rio Declaration principle 16

Functions of PPP

Main function according to OECD recommendation:

Allocation “of costs of pollution prevention and control measures to encourage rational use of scarce environmental resources and to avoid distortions in international trade and investment”

The polluter should bear the expense of carrying out the measures “Decided by public authorities to ensure that the environment is in acceptable state” (OECD 1972)

Rio Declaration on Environment and Development

Principle 16

- National authorities should endeavor to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.

Functions of PPP

- ❑ Today, PPP is understood in a broad sense:
- ❑ Covering pollution prevention and control measures
- ❑ Covering liability---clean up costs of damage to the environment
- ❑ Pollution at the source---product impacts, LCA, extended producer responsibility
- ❑ PPP can be understood as overarching principle of environmental responsibility

Functions of PPP



Environmental Responsibility

Prevention
and Control
measures

Clean up
costs

Integrated
Pollution
Control

→ Internalisation of external costs

Substance of PPP

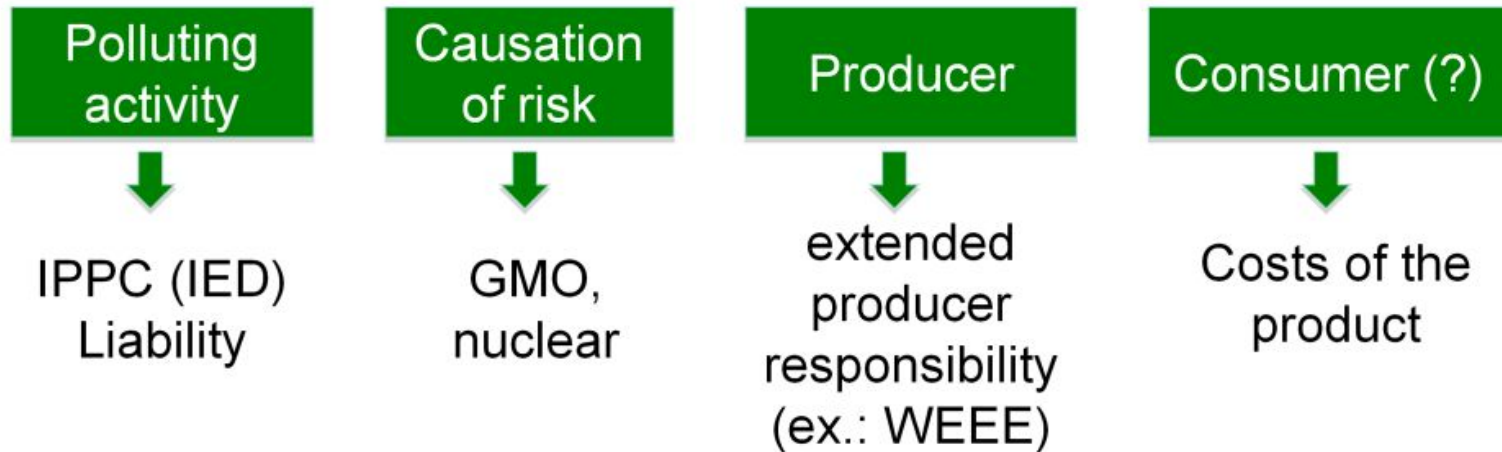
- What is pollution?
- What is the polluter?
- How much has to be paid?

Substance of PPP

What is pollution?

- ❑ Two concepts:
- ❑ Pollution exists, if administrative thresholds are exceeded → unlawful acts
- ❑ Pollution is defined independently from administrative thresholds → environmental impact of the emission or harmful activity
- ❑ Pollution does not mean, that environmental damage already occurred → also minimization of risk has to be paid by the “polluter” → preventive and precautionary principle

Who is the polluter?



Substance of PPP

How much has to be paid?

- Costs for preventive and precautionary measures
- Administrative procedures
- Costs for reinstatement
- But only for own pollution

PPP in International Law

- ❑ Numerous Conventions (Helsinki Convention on the Protection of the Baltic Sea, Convention for the Protection of the Mediterranean Sea against Pollution)
- ❑ WTO Law
- ❑ PPP as general principle of law or as a rule of customary law as provided for in Article 38 of the Statute of the International Court of Justice

PPP in International Law

STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

Article 38

1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:
 - a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
 - b. international custom, as evidence of a general practice accepted as law;
 - c. the general principles of law recognized by civilized nations;
 - d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

PPP in National Law

Environmental Code of the Republic of Kazakhstan

Article 5. The basic principles of environmental legislation of the Republic of Kazakhstan

7) mandatory compensation for damage, caused to the environment;

8) payment and authorization procedure of environmental impact;

Article 189. The principles of international cooperation

9) responsibility of the polluter for the expenses, connected with the environment pollution.

Instruments to implement PPP

- ❑ Command and control law: Environmental binding standards, emission limit values.
- ❑ Economic instruments--- tradable permits, eco-taxes, liability rules
- ❑ Voluntary approaches

Instruments to implement PPP

Command and Control Law

Licensing procedures

Prohibitions

Emission limit values

Administrative orders & sanctions

Market based instruments

Subsidies/Feed-in-tariffs

Certificates

Tax alleviations

Liability rules

Soft law

Voluntary agreements

Environmental management systems (ISO 14001)

Labelling

The 'polluter pays' principle is normally implemented through two different policy approaches: command-and-control and market-based. **Command-and-control** approaches include performance and technology standards, such as environmental regulations in the production of a given polluting technology. **Market-based instruments** include pollution or ecotaxes, tradable pollution permits and product labelling.

Most of the time, the 'polluter pays' principle takes the form of a tax collected by government and levied per unit of pollution emitted into the air or water. As a policy instrument for the control of pollution, a tax on emissions will theoretically reduce pollution, because firms or individuals will reduce emissions in order to avoid paying the tax.

Despite the fact that the ‘polluter pays’ principle was publicised by early conservationists as a means to reduce ecological pollution or in general ecological damages, many observers still consider it a ‘vague concept’. However, the Exxon Valdez case would be an example of its application. In 1989, the oil tanker ran aground and over 300,000 barrels of crude oil poured into Alaskan waters. Exxon was in principle required to pay USD 125 million in fines to the US Federal Government and the state of Alaska, as well as USD 900 million for a fund to be doled out by government officials for environmental projects, among other things. In addition, Exxon was put under tremendous political pressure to restore the shoreline. It thus engaged in an extensive and costly clean-up operation, with controversial results.

Conclusion

In our opinion, many local small- and medium-sized firms cannot internalize environmental costs in their products or finance cleaner technologies, and governments often lack the power to force (e.g. extractive) industries to internalize environmental costs. In sum, however, ecotaxes usually fit well into the ecological economics framework. Environmental taxes are tools for achieving two different kinds of government goals: the provision of public services and goods and the protection of environmental quality. The joint pursuit of both goals using taxation can thus enable government to justify doing more of both.

References

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