

# Boston College Environmental Affairs Law Review

---

Volume 19

Issue 3 *The 1991 Bellagio Conference on U.S.-U.S.S.R.  
Environmental Protection Institutions*

Article 10

---

5-1-1992

## The Costs and Benefits of Regulatory and Incentive Systems

Mikhail M. Brinchuk

Follow this and additional works at: <http://lawdigitalcommons.bc.edu/ealr>



Part of the [Environmental Law Commons](#)

---

### Recommended Citation

Mikhail M. Brinchuk, *The Costs and Benefits of Regulatory and Incentive Systems*, 19 B.C. Envtl. Aff. L. Rev. 563 (1992), <http://lawdigitalcommons.bc.edu/ealr/vol19/iss3/10>

This Symposium Article is brought to you for free and open access by the Law Journals at Digital Commons @ Boston College Law School. It has been accepted for inclusion in Boston College Environmental Affairs Law Review by an authorized editor of Digital Commons @ Boston College Law School. For more information, please contact [nick.szydowski@bc.edu](mailto:nick.szydowski@bc.edu).

## THE COSTS AND BENEFITS OF REGULATORY AND INCENTIVE SYSTEMS

*Mikhail M. Brinchuk\**

Social and economic development, directed to satisfying the full range of human needs, has a powerfully destructive impact on the environment. Many have considered law a good potential tool for overcoming the contradiction between development and environmental protection. Before examining Soviet ecological law from the point of view of the costs and benefits of regulatory and incentive systems, it is necessary to say a few words about the quality of this law.

The Soviet state created special legislation in response to the increasing impacts of economic activity on the environment, and the environment's subsequent deterioration. The legislation, however, cannot satisfy growing ecological demands. It applies mainly to specific natural resources and regulates their rational use and protection from pollution. Up to the present in the Soviet Union there have been no laws on the protection of the environment as an integrated whole. As a result, certain activities remain unregulated or are weakly regulated. In particular, there is little control over the production of toxic substances, the use of chemicals in agriculture, the disposal of solid wastes, and other problems of industrial pollution. It is one of the urgent tasks of the Soviet state to elaborate its environmental protection legislation.

The existing Soviet laws contain important requirements aimed at preventing ecological harm. These requirements, whose primary goal is to protect the water and air, set standards for the maximum allowable impact of various activities on the environment and govern the planning, construction, and operation of economic and other enterprises. Some of the requirements, however, do not take into

---

\* Director, Institute of State and Law, U.S.S.R. Academy of Sciences, Sector on Ecological Law.

account the impossibility of their implementation. It is clear that facilities constructed thirty to fifty years ago cannot meet strict standards for maximum allowable pollutant concentrations, because their technology is not ecologically sound.

In many cases the requirements are not effective even when it would be possible to try to satisfy them. Reasons for the inefficiency of current Soviet ecological law are various. A primary reason is the weakness of its enforcement mechanisms. Until recently, the imposition of legal responsibility—administrative, criminal, and civil—was the main means of forcing compliance with the requirements. Administrative fines were the most widely used tool for imposing responsibility. They, however, were not sufficiently effective because of their small sums: approximately ten to twelve rubles on average. In addition, criminal sanctions have been rare for violations related to the pollution of the environment. On the other hand, one of the benefits of legal sanctions in the field of environmental protection, and especially of administrative measures, is that they allow immediate impact on an individual's behavior or an enterprise's operation.

Measures imposing legal responsibility, as well as administrative measures such as shutting down enterprises that violate ecological rules, are the tools of a command-oriented administrative system. In January 1988, the Central Committee of the Communist Party of the Soviet Union and the Union's Cabinet of Ministers issued a decree, "On the Basic Restructuring of Environmental Protection Activities in the Nation," that has provided for "a decisive transition from mainly administrative to mainly economic methods of environmental protection." As a result of this decree, the Soviet state uses or plans to use the following economic incentives: payments for natural resource use and for the pollution of the environment; bonuses for the successful implementation of environmental protection measures; tax and credit privileges for enterprises and citizens that install and use ecologically sound technology; and the granting of the right to sell waste discharges to the environment.

One can expect that, in the transition to a market economy, an incentive system will become a widely used and significant means of promoting environmental protection. The advantage of such a system is that the economic results of an enterprise—its profits—will be closely connected to the efficiency of its environmental protection activities, and thus every worker will be interested in complying with legal environmental requirements.

From my point of view, enforcement of Soviet environmental protection laws can be more effective if it is based on an optimal combination of administrative and economic, incentive-based tools.