

BAKİ UNİVERSİTETİNİN
XƏBƏRLƏRİ

ВЕСТНИК
БАКИНСКОГО УНИВЕРСИТЕТА

NEWS
OF BAKU UNIVERSITY

SOSIAL-SİYASİ
elmlər seriyası

серия
СОЦИАЛЬНО-ПОЛИТИЧЕСКИХ НАУК

series of
SOCIAL-POLITICAL SCIENCES

№ 4, 2024

Bakı – 2024

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HÜQUQ**UOT 341.2****THE EU'S ROLE
IN ENVIRONMENTAL LIABILITY AGREEMENTS****N.H.MEHTİYEV, R.Z.ƏLİYEV*****Bakı Dövlət Universiteti*
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Internationally, the EU is a key actor, shaping agreements like the Paris Agreement, the Convention on Biological Diversity, and the Sendai Framework for Disaster Risk Reduction. It has ratified numerous multilateral treaties addressing issues such as ozone depletion, hazardous chemicals, and transboundary pollution. The EU's monitoring mechanisms include the European Environment Agency, Copernicus satellite data, and the Environmental Implementation Review. These tools ensure progress towards sustainability and assess compliance with laws like the Environmental Liability Directive. The EU's leadership in addressing the interconnected crises of climate change, biodiversity loss, and pollution highlights its commitment to a sustainable future, emphasizing international cooperation and the integration of environmental values into policymaking.

Keywords: Environmental Policy, Biodiversity, European Climate Law, Multilateral Environmental Agreements, Environmental Monitoring, Sustainable Development Goals (SDGs).

The European Union (EU) has emerged as a key actor in global environmental governance, shaping and implementing robust policies aimed at addressing pressing environmental challenges. Anchored by principles such as precaution, prevention, rectification at source, and the polluter-pays principle, the EU's environmental strategy reflects a commitment to sustainability, biodiversity preservation, and climate resilience. These policies are underpinned by the European Green Deal, a comprehensive roadmap targeting a circular economy, pollution reduction, and biodiversity restoration. The EU's active participation in multilateral environmental agreements (MEAs), such as the Montreal Protocol and the Convention on International Trade in Endangered Species (CITES), underscores its dedication to fostering international cooperation and addressing transboundary issues. Despite its

achievements, the EU acknowledges that global environmental degradation requires unified action at all levels to ensure a viable future for the planet. (1)

The European Union's (EU) environmental policy, based on Article 191 of the Treaty on the Functioning of the European Union, aims to preserve, protect and improve the quality of the environment and to protect human health. It also focuses on the careful and rational use of natural resources and contributes to promoting, at the international level, measures intended to combat regional or global environmental problems such as climate change and biodiversity loss. It is based on precautionary and preventive action, correction at source and the polluter-pays principle.

Action in areas of environmental policy such as air and water pollution, nature protection and restoration, waste management and climate change is under the jurisdiction of the EU. The principle of subsidiarity, however, limits the scope of EU action with regard to tax-related matters, spatial planning and land use, along with quantitative water resource management.

The EU's environmental policies are designed to speed up the transition to a sustainable, innovative and circular economy, where biodiversity is protected, valued and restored and environment-related health risks are minimised. They aim to enhance the EU's resilience and to decouple growth from resource use.

In December 2019, the European Commission adopted the European Green Deal, its roadmap to address climate change and environmental degradation. The roadmap aims to transform the EU into a modern, resource-efficient and competitive economy by: boosting the efficient use of resources; moving to a clean, circular economy; restoring biodiversity; and reducing pollution. The eighth environmental action programme (2022) guides environmental and climate policymaking and implementation until 2030. (2)

Biodiversity — the rich variety of life on Earth — is under threat, mainly because of unsustainable human activity. The EU hosts a wide range of animal and plant species and a variety of natural habitats. According to the European Environment Agency, most protected species in Europe have a poor or bad conservation status. Protecting nature is important for several reasons: it is crucial for the survival of species and their habitats; it is essential for human wellbeing because: our societies and economies rely upon ecosystem services, such as clean water and air, pollination, climate regulation and sources of nutrition or medicines, well-functioning ecosystems prevent the emergence and spread of zoonotic diseases (infectious diseases which can spread from animals to people); it is vital to protect our shared natural heritage.

The EU has played and continues to play an important role at international level in nature protection and conservation. It is party to several conventions including: the Convention on the Conservation of Wetlands,

adopted in Ramsar (1971); the Convention on International Trade in Endangered Species of Wild Fauna and Flora, known as CITES, adopted in Washington (1973); the Convention on the Conservation of Migratory Species of Wild Animals, adopted in Bonn (1979); the Convention on the Protection of European Wildlife and Natural Habitats, adopted in Bern (1982); the Convention on Biological Diversity, adopted in Rio de Janeiro (1992).

The EU is also bound by the Aarhus Convention (1998), which concerns public access to environmental information, public participation in decision-making and access to justice.

The EU has committed itself to protecting and restoring biodiversity. The EU's first legislation to protect nature was the original Birds Directive, adopted in 1979 and codified and replaced, in 2009, by Directive 2009/147/EC. The Directive provides comprehensive protection to all wild bird species naturally occurring in the EU. In 1992, the Habitats Directive (Directive 92/43/EEC) was adopted to help maintain biodiversity by protecting over 1,000 animal and plant species and over 200 types of habitats, and introducing the Natura 2000 network of protected areas across Europe. The Natura 2000 network's Special Areas of Conservation and Special Protection Areas currently (2021) account for around 18% of EU's land and 9% of EU seas.

The EU's nature-related legislation also deals with: invasive alien species (animals and plants introduced accidentally or deliberately into a natural environment where they are not normally present, with serious negative consequences for their new environment); wildlife trade (rules implementing CITES, which go beyond the convention's requirements, trade in seal products, and humane trapping standards); the role of zoos in the conservation of biodiversity.

Since the mid-2000s, the EU has adopted a series of biodiversity action plans and strategies. The latest one, the 2030 Biodiversity Strategy, aims to protect nature and reverse the degradation of ecosystems. The strategy aims to put Europe's biodiversity on a path to recovery by 2030, and contains over 100 specific actions and commitments. It is the proposal for the EU's contribution to the international negotiations on the global post-2020 biodiversity framework. A core part of the European Green Deal, it will also support a green recovery following the COVID-19 pandemic. (3)

The EU plays a key role in international environmental negotiations. It is a party to numerous global, regional or sub-regional multilateral environmental agreements on a wide range of issues, such as nature protection and biodiversity, climate change and transboundary air or water pollution. The EU helped shape several major international agreements adopted in 2015 at UN level, such as the 2030 Agenda for Sustainable Development (which includes the 17 global SDGs and their 169 associated targets), the Paris

Agreement on climate change and the Sendai Framework for Disaster Risk Reduction. It also became a party to the Convention on International Trade in Endangered Species (CITES), underscoring its dedication to conserving biodiversity and curbing illicit wildlife trade.

In 1972, the European Council, held in Paris, declared the need for a Community environment policy flanking economic policies, and called for an action programme to conserve and improve the environment and to combat pollution and nuisances.

In 1987, the Single European Act introduced a new ‘Environment Title’ (Title VII), which provided the first legal basis for a common environment policy. Its aims are to preserve the quality of the environment, protect human health and ensure rational use of natural resources. Subsequent treaty revisions strengthened the Community’s commitment to environmental protection and the role of the European Parliament in its development.

In 1993, the Treaty of Maastricht made the environment (Title XVI) an official EU policy area. It introduced the codecision procedure and made qualified majority voting in the Council the general rule. Moreover, it urged Member States to assess their environmental impact and uphold the principle of sustainable growth.

In 1999, Article 3c of the Treaty of Amsterdam mandated the integration of environmental protection into all EU sectoral policies so as to promote sustainable development.

In 2007, the Treaty of Lisbon made climate change and sustainable development a priority. It also granted the EU legal personality to conclude international agreements.

These advancements strengthened the EU’s role as a key actor on the global environmental front, leading the way with key initiatives such as the European Green Deal and the European Climate Law.

EU environment policy is based on four principles: precaution: if an action or policy has the potential to cause harm to the environment or public health, and there is persisting scientific uncertainty about its effects, this action should not be applied until further evidence is provided. Prevention: a tool aimed at preventing environmental damage, rather than reacting to it. This requires preventive measures to be taken to anticipate and avoid environmental damage. Rectifying pollution at source: if damage to the environment has already occurred, the polluters are obliged to take the appropriate measures to remedy it at the point of origin. ‘Polluter pays’: if damage has occurred, the polluters are obliged to take the appropriate measures to remedy it and pay for the costs. It is implemented through the Environmental Liability Directive, which aims to prevent or otherwise remedy environmental damage to protected species or natural habitats, water and soil.

Since 1973, the Commission has issued multiannual Environment Action Programmes (EAPs) setting out forthcoming legislative proposals and goals for EU environment policy. In May 2022, the 8th EAP entered into force, as the EU's legally agreed upon common agenda for environment policy until the end of 2030. It reiterates the seventh EAP's vision for 2050: ensuring well-being for all, while staying within planetary boundaries.

The new programme endorses and builds on the environmental and climate objectives of the European Green Deal along six priority objectives: achieving the 2030 greenhouse gas emission reduction target and climate neutrality by 2050. Enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change. Advancing towards a regenerative growth model, decoupling economic growth from resource use and environmental degradation, and accelerating the transition to a circular economy. Pursuing a zero-pollution ambition, including for air, water and soil and protecting the health and well-being of Europeans. Protecting, preserving and restoring biodiversity, and enhancing natural capital (notably air, water, soil, forest, freshwater, wetland and marine ecosystems). Reducing environmental and climate pressures related to production and consumption (particularly in the areas of energy, industrial development, buildings and infrastructure, mobility and the food system). (4)

Environmental liability applies to environmental damage and the risk of damage resulting from commercial activities once it is possible to establish a causal link between the damage and the activity in question. Environmental damage may be direct or indirect damage caused to the aquatic environment, flora and fauna and natural habitats protected by the Natura 2000 network, as well as direct or indirect contamination of the soil, which could lead to a serious risk to human health.

Environmental liability is an application of the 'polluter pays' principle as set out in Article 191(2) of the Treaty on the Functioning of the European Union. Arrangements for applying it are set out in Directive 2004/35/EC.

Two systems of liability have been created: a system with no fault to be proven: this applies to dangerous or potentially dangerous commercial activities listed in EU law. Here, the operator may be held liable even if he has committed no fault. A system where evidence of a fault or negligence must be presented: this applies to all other commercial activities where species and natural habitats protected under EU law have been damaged or are at imminent risk of damage. The operator is only liable if he has committed a fault or has been negligent. (5)

On 26 July 2022, the Commission adopted a list of headline indicators to monitor progress towards the EU's environment and climate goals, as foreseen in the 8th EAP. This monitoring framework will inform European

citizens about the impact of EU climate and environmental policy and facilitate an exchange between policy-makers on where further efforts are needed, in order to stay within the safe and just limits of our planet. The headline indicators follow the structure of the 8th EAP building on the European Green Deal.

In line with article 4.4 of the 8th EAP and as outlined in the Communication, the Commission, supported by the European Environment Agency (EEA) and the European Chemicals Agency (ECHA) monitors, assesses and reports annually on progress on the priority objectives. Based on the selected headline indicators, the EEA assesses progress towards the 8th EAP objectives in annual reports published every December, from 2023 onwards.

A mid-term review was carried out on 13 March 2024 (under Article 5.1), which found that the EU's objectives under the European Green Deal are attainable if the actions planned are fully implemented. It underlined the importance of meeting climate and environmental objectives also for their positive economic impact, including in terms of health, resilience, or autonomy in material use. The mid-term report added that although many planned actions, such as legislative changes, have been carried out, it is too early to assess their impact on the environment as they are yet to be implemented on the ground.

Some of the reviews key findings include:- notable progress on climate change mitigation and adaptation, such as the adoption of key legislation to achieve climate neutrality, in particular the EU Climate Law, the Fit for 55 package of legislation and the 2021 Climate Adaptation Strategy. However, it noted that faster progress is needed to meet the EU's 2030 target of cutting GHG emissions at least 55% and achieve climate neutrality by 2050.

The effects of climate change on natural ecosystems, socio-economic sectors and people's health and wellbeing already being felt, in particular, due to more frequent and intensive weather extremes events.

All actions under the second circular economy action plan have been delivered, including the Ecodesign for Sustainable Products Regulation, which must now be implemented on the ground.

The delivery of most actions under the zero-pollution action plan, in particular the revision of the Industrial Emissions Directive and the Soil Monitoring Law, but progress towards zero pollution on the ground is mixed.

Most actions set out in the biodiversity strategy have been completed, including a political agreement on the Nature Restoration Law, as well as an increase in designated protected land and marine areas.

Water scarcity now affects almost one-third of the EU population every year. This has a direct impact on the well-being of current and future

generations and it is likely to further increase due to climate change and the increase in frequency and intensity of weather extremes.

A full evaluation of the 8th EAP is expected by 31 March 2029. This will be followed, if appropriate, by a proposal for the next environmental action programme by 31 December 2029 (Article 6).

The European Parliament, the Council of the European Union and the Commission exchange views annually, based on the reports, on actions taken, and possible future actions. (6)

The effectiveness of EU environmental policy is largely determined by its implementation at national, regional and local levels. Deficient application and enforcement remain an important issue. Monitoring is crucial – both of the state of the environment and of the level of implementation of EU environmental law.

In 2001, the EU adopted (non-binding) minimum standards for environmental inspections in the Member States. They have to ensure effective, proportionate and dissuasive criminal sanctions for serious environmental offences. These include, for instance: the illegal emission or discharge of substances into the air, water or soil; illegal trade in wildlife; illegal trade in ozone-depleting substances; and illegal shipment or dumping of waste.

The European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) is an international network of environmental authorities created to boost enforcement by providing a platform for policy-makers, environmental inspectors and enforcement officers to exchange ideas and best practices.

In May 2016, the Commission launched the Environmental Implementation Review, a new tool designed to help reach full implementation of EU environmental legislation, which goes hand in hand with its fitness check (Regulatory Fitness and Performance Programme – REFIT) of monitoring and reporting obligations under existing EU legislation so as to make it simpler and less costly.

In 1990, the European Environment Agency (EEA) was established in Copenhagen to support the development, implementation and evaluation of environment policy and to inform the general public on the matter. In 2020, it published its sixth State of the Environment Report on the status and outlook of the European environment.

In terms of monitoring, the EU also runs the European Earth Observation Programme (Copernicus), which provides environmental observation satellite data. With regard to pollutants, the European Pollutant Release and Transfer Register (E-PRTR) provides key environmental data from more than 30 000 industrial facilities in the EU. Data from both programmes is open access. (4)

Over the past 2-3 decades, the EU (including its member states) has emerged as a major actor and leader in international environmental policy. While the EU's role in international climate policy is subject to much public attention, it has also helped bring about and advance agreement in other key areas of international environmental policy, including with respect to the protection of biological diversity (the Convention on Biological Diversity and its Cartagena Protocol on biosafety and Nagoya Protocol on genetic resources), international governance of chemicals (Rotterdam, Stockholm and Minamata Conventions), the protection of the ozone layer (Vienna Convention and its Montreal Protocol) and many others (including regional agreements). Its leadership role in international environmental negotiations has not least been based on the pooling of its resources and weight with the size of the EU's internal market as an important indicator.

Arrangements for determining EU international environmental policy (including external representation). The participation of the EU in international environmental negotiations implies coordination between the Member States and the European Commission. Where negotiations aim at concluding new international treaties and involve EU competence, Article 218 of the Treaty on the Functioning of the European Union (TFEU) is applicable. Accordingly, the European Commission is to make recommendations for negotiating directives to the Council of Ministers of EU member states that decides on these directives (usually by qualified majority). The EU negotiator, usually the European Commission (in the case of the international climate negotiations: the rotating Presidency of the Council of Ministers), subsequently leads the negotiations in close coordination with a committee of the Member States. Negotiating positions and objectives are generally decided by the member states, in the aforementioned negotiating directives or in Council Conclusions (with the latter requiring consensus among Member States). They are also further developed during the negotiations in consultation with the Member States (and with input by the European Parliament that, since 2009, can veto EU ratification of most international treaties). Coordination arrangements follow similar routes where international negotiations do not aim at concluding new international treaties. Informal pragmatic arrangements have been developed over the years to optimise EU negotiating influence. For example, in the international climate negotiations, a system of 'lead negotiators' has been established that allows the EU to make use of negotiating skills available among the European Commission and the EU Member States. The UK has regularly played a prominent role in such arrangements. (7)

Europeans enjoy high environmental standards. However, even robust EU environmental legislation is not sufficient to address transboundary and

global environmental degradation, nor to sufficiently reduce the impact of the EU's economic activity on natural resources worldwide. The environmental ambition of the European Green Deal will not be achieved by Europe acting alone.

Confronting the triple crisis of climate change, biodiversity loss and pollution requires commitment and effective cooperation at the international level. These crises reinforce each other, further damaging the environment and our health. Therefore, all need to be resolved if we want a viable future.

The EU plays an active role in multilateral environmental agreements and other environmental negotiations and processes. Its constructive position has on several occasions proved crucial to ensuring progress. The EU has also contributed to the development of the 17 Sustainable Development Goals.

The EU is working internally and globally to promote sustainable development, shifting towards low carbon and resource-efficient economies. Transforming social and economic systems means improving our relationship with nature – understanding its value and putting that value at the heart of decision making. (6)

Addressing the triple planetary crisis of climate change, biodiversity loss and pollution, as well as other global environmental challenges, requires efficient international cooperation. Most environmental problems also have a transboundary nature.

For this reason, the Lisbon Treaty establishes that one of the key objectives of the EU policy on the environment is to promote measures at international level to deal with regional or worldwide environmental problems. The EU therefore plays an active role in the elaboration, ratification, and implementation of multilateral environmental agreements.

The EU has already ratified many multilateral environmental agreements. These are at global level (multilateral agreements negotiated under the auspices of the UN), at regional level (for example in the context of the UN Economic Commission for Europe or the Council of Europe), and sub-regional level (for instance for the management of seas or transboundary rivers).

The matters addressed by these agreements are very wide. See below the full list of multilateral agreements to which the EU is a Party. (8)

MEAs are international agreements that address the most pressing environmental issues of global or regional concern and are critical instruments of international environmental governance and international environmental law. They cover a wide scope of issues, ranging from the protection of the atmosphere to the sustainable management of chemicals and waste, to halting nature and biodiversity loss.

States, regional economic integration organizations, and, in some instances, international organizations become party to MEAs with national governments responsible for implementing them.

Addressing the triple planetary crisis of climate change, nature and biodiversity loss, and waste and pollution, as well as other global environmental challenges, requires efficient international cooperation. Despite efforts by the international community, environmental degradation is continuing. Hence, we need to unite forces at all levels to address the impacts and drivers of environmental degradation more effectively. In this regard, strengthening implementation of and compliance with the MEAs is a key area of action. These agreements have emerged as one of the best ways of institutionalizing intergovernmental cooperation and triggering national action in the environmental sector.

There are many success stories of effective multilateral action through MEAs over the years. I will share two examples to illustrate this. The first one is the Montreal Protocol on Substances that Deplete the Ozone Layer. With universal ratification, the protocol has been extremely successful in its original aim of cutting the production and use of chlorofluorocarbons and other ozone-depleting substances. Nearly 99 per cent of ozone-depleting substances have been phased-out to date, resulting in the recovery of the ozone layer protecting us from harmful sun rays that cause skin cancer.

Similarly, the Convention on International Trade on Endangered Species (CITES), has made significant progress preventing more species from becoming threatened by trade and enabled the recovery of species that were endangered. CITES currently regulates international trade in over 40,000 species of plants and animals.

The overall goal of strengthening the engagement of MEAs in UNEA-6 is to promote coherence between the resolutions of the assembly and the decisions of the governing bodies of the MEAs. The discussions at UNEA-6 support the Environment Assembly in enhancing its relationship with the MEAs. They will contribute to the implementation of the 2030 Agenda for Sustainable Development by strengthening convergence of action and dialogue on common strategies and sharing of experiences, while providing increased visibility to the decisions of the governing bodies of the MEAs.

The agenda item will include an MEA day which will be organized with two high-level dialogues. MEA-related side events and an MEA exhibition will showcase cooperation between UNEP, other UN entities and MEAs, as well as intra-MEA cooperation. (9)

In conclusion, the European Union stands as a global leader in environmental governance, showcasing a steadfast commitment to sustainability, biodiversity preservation, and climate resilience. By integrating principles

such as the polluter-pays principle and the precautionary approach into its legal framework, the EU exemplifies how comprehensive policy-making can address the complex challenges of environmental degradation and climate change. Its proactive engagement in international treaties and initiatives, such as the Paris Agreement and the Convention on Biological Diversity, highlights its role as a key actor in fostering global environmental cooperation.

However, the journey toward sustainability is far from complete. The EU continues to face internal and external challenges, including the need to reconcile economic growth with environmental imperatives, ensure equitable transitions for all member states, and address the growing urgency of climate impacts. Despite these hurdles, the EU's emphasis on innovation, renewable energy, and sustainable practices reflects a forward-thinking approach that seeks to balance ecological health with societal well-being.

Ultimately, the EU's environmental efforts are a testament to the power of collective action and shared responsibility in addressing global challenges. As the world navigates the Anthropocene, the EU's experience offers valuable lessons for other regions aspiring to achieve a harmonious balance between human activity and the natural environment. By staying true to its principles and fostering inclusive partnerships, the EU can continue to lead the way in building a more sustainable and resilient future for all. (10)

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AI-nin ƏTRAF MÜHİTƏ CAVABDEHLİK RAZILAŞMALARINDAKI ROLU

R.Z.ƏLİYEVƏ

XÜLASƏ

Beynəlxalq aləmdə AI mühüm bir aktordur və Paris Sazişi, Bioloji Çeşidlilik Konvensiyası və Sendai Çərçivəsi kimi razılaşmaları formalaşdırır. Ozon qatmanının azaldılması, zərərli kimyəvi maddələr və sərhədstü çirklənmə kimi məsələləri nəzərə alan çoxsaylı çoxtərəfli sazişləri ratifikasiya edib. AI-nin monitoring mexanizmlərinə Avropa Ətraf Mühit Agentliyi, Copernicus peyk məlumatları və Ətraf Mühitin İcrası Üzrə İcmal daxildir. Bu alətlər davamlılığa doğru irəliləyişin təmin edilməsi və Ətraf Mühitə Cavabdehlik Direktivi kimi qanunlara uyğunluğun qiymətləndirilməsi üçün istifadə olunur. AI-nin iqlim dəyişikliyi, bioloji müxtəlifliyin itirilməsi və çirklənmə kimi əlaqəli böhranlara qarşı liderliyi, davamlı gələcəyə olan öhdəliyini vurğulayır və beynəlxalq əməkdaşlığı və ətraf mühit dəyərlərinin siyasətə inteqrasiyasını önə çıxarır.

Açar sözlər: Ətraf Mühit Siyasəti, Bioloji Çeşidlilik, Avropa İqlim Qanunu, Çoxtərəfli Ətraf Mühit Sazişləri, Ətraf Mühit Monitoringi, Davamlı İnkişaf Məqsədləri.

РОЛЬ ЕС В СОГЛАШЕНИЯХ ОБ ЭКОЛОГИЧЕСКОЙ ОТВЕТСТВЕННОСТИ

Р.З.АЛИЕВА

РЕЗЮМЕ

На международной арене ЕС является ключевым игроком, формируя такие соглашения, как Парижское соглашение, Конвенция о биологическом разнообразии и Сендзийская рамочная программа по снижению рисков бедствий. ЕС ратифицировал многочисленные многосторонние договоры, касающиеся таких проблем, как истощение озонового слоя, опасные химические вещества и трансграничное загрязнение. Механизмы мониторинга ЕС включают Европейское агентство по охране окружающей среды, спутниковые данные Copernicus и Обзор реализации экологической политики. Эти инструменты обеспечивают прогресс в направлении устойчивости и оценивают соблюдение законов, таких как Директива о экологической ответственности. Лидерство ЕС в решении взаимосвязанных кризисов изменения климата, утраты биологического разнообразия и загрязнения подчеркивает его приверженность устойчивому будущему, акцентируя внимание на международном сотрудничестве и интеграции экологических ценностей в процессы принятия решений.

Ключевые слова: Экологическая политика, Биологическое разнообразие, Европейский климатический закон, Многосторонние экологические соглашения, Экологический мониторинг, Цели устойчивого развития (ЦУР).

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Korrektor: *Solmaz Babaşova*

Kompüter tərtibçisi: *Azadə İmanova*

Çapa imzalanmışdır: 14.03.2025

Formatı: 70x100 1/16. Həcmi 7,75 ç.v. Sayı 100.

BDU Nəşr Evində çap olunmuşdur.

AZ 1148, Bakı ş., ak. Z.Xəlilov küçəsi, 33.

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