

EU–UK climate cooperation post-Brexit: A case for optimism?

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There was palpable relief when the EU and UK concluded the Trade and Cooperation Agreement (TCA) on Christmas Eve 2020, pulling both sides back from the brink of a no-deal cliff edge. But hopes that concluding a Brexit deal would mark the beginning of a more constructive relationship have faded quickly since.

The first half of this year was difficult, rife with conflicts over the implementation of the Northern Ireland (NI) Protocol, fishing rights in Jersey's waters, and the (now resolved) diplomatic status of the EU Delegation to the UK. Tensions around the Protocol in particular have been seeping into all areas of the EU–UK relationship. Furthermore, the new economic settlement has, predictably, caused disruption. While the TCA permits tariff- and quota-free movement for goods, non-tariff measures and rules-of-origin requirements render trade more cumbersome and costly. EU exports to and imports from the UK dropped respectively by -14.3% and -35.4% in the first three months of 2021.¹

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While friction and conflict are likely to feature prominently for quite some time, both sides continue to share many global interests, be it on European security, multilateralism or global health. In fact, there is a

particularly strong rationale for cooperation regarding climate action. The importance of a joint EU–UK climate leadership is further heightened by the current global context. After the pandemic-induced one-year delay, the 26th UN Climate Change Conference of the Parties (COP26) is finally taking place in the first half of November 2021, hosted by the UK in Glasgow. There is a unique urgency to this COP, which US climate envoy John Kerry described as “the last best chance the world has to come together [...] to avoid the worst consequences of the climate crisis.”²

As part of the Paris Agreement's five-year cycle, all countries are required to update their plans for climate action, or nationally determined contributions (NDCs), in the run-up to COP26. The Conference is a unique window for enhanced global ambition, as the US has re-joined the Paris Agreement while China has pledged to achieve climate neutrality by 2060.

The EU and UK should use this opportunity to strategically – and jointly – push for increased global ambition. Both have enhanced their NDCs: compared to their respective 1990 levels, the EU commits to at least a -55% reduction in greenhouse gas emissions by 2030, and the UK to at least a -68% reduction. However, more efforts will be required, particularly in terms of supporting developing countries to reduce their emissions. As UN Secretary-General António Guterres warns, “The world remains way off target in staying within the 1.5-degree limit of the Paris Agreement.”³

The EU and UK have a shared interest in a triumphant COP and persuading other countries, particularly heavy polluters, to follow their climate policies. For this to succeed, both parties must be seen as credible climate leaders who are heading in the same direction and able to show others the way.

The urgency of the climate challenge and alignment of interest make COP26 a unique testbed for the EU's and UK's ability to shape and raise global ambition jointly. However, despite the overwhelming rationale, there are signs that the cooperation is not going as smoothly as it should, with both sides struggling to (fully) insulate climate cooperation from the high-friction context of the overall relationship.

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What are the opportunities and limitations of EU–UK climate cooperation post-Brexit? As the partnership's new basis, can the TCA be conducive for closer climate cooperation and growing ambitions? How are the EU and UK working together in the run-up to COP26, set to be an important test case for a joint EU–UK climate agenda?

BACKGROUND: THE BREXIT DEAL'S AMBITION FOR CLIMATE COOPERATION WON'T SUFFICE

The TCA is a thin deal that broadly outlines how both parties will trade (goods) with each other, leaving gaps in many areas of previous cooperation. Case in point, there is no mobility chapter nor formal cooperation on foreign policy, while provisions on services are limited. The deal's sparseness resulted from both sides' firm red lines, the unusually short negotiating timeframe, and the UK's primacy of political over economic concerns.

While the TCA is less deep and comprehensive than was envisioned in the Political Declaration, it reflects both sides' proximity and interconnectedness. Its level of binding obligations as well as recognition of shared challenges also indicate the size of the UK's economy. The TCA's preamble acknowledges the importance of global cooperation to address shared interests, including climate action. Furthermore, the Agreement explicitly recognises climate change as an existential threat to humanity.

Importantly, the fight against climate change is identified as one of the partnership's essential elements, alongside democratic principles, the rule of law, human rights and non-proliferation of weapons of mass destruction. Its classification as "essential" implies that a "serious and substantial failure" in this area by either party could lead to the TCA's suspension or (partial) termination. Non-compliance with the Paris Agreement, as in "an act or omission which materially defeats [its] object and purpose", is explicitly considered to be such a failure.⁴ Although an arguably high threshold, it clearly places climate change at the core of a shared EU–UK agenda.

However, while climate commitments in the TCA go further than in the EU's other free trade agreements, signalling a clear prioritisation, four important caveats are to be made.

First, the TCA's scope of application might be limited by its strong emphasis on the trade-related aspects of climate change. For example, non-regression clauses prevent either party from weakening or reducing their environmental or climate protection "in a manner affecting trade or investment" as of the end of 2020.⁵ Environmental groups have criticised this "trade and investment test", pointing out that the impact might be difficult to prove, potentially rendering the provisions ineffective.⁶

Second, the TCA focuses on reaffirming existing ambitions, such as achieving economy-wide climate neutrality by 2050 or maintaining levels of protection that were in place at the end of the transition period. Here, the TCA contains some innovative elements, particularly on the enforceability of non-regression by allowing temporary remedial measures. While significant, these provisions are about preventing a race to the bottom. In other words, to avoid falling below standards that are clearly insufficient to reach the Paris Agreement's goal of limiting global warming to below 2°C.

Whether the TCA can also be a tool to raise joint ambitions is doubtful. A possibility would be via the novel rebalancing mechanism, which allows either side to take "proportionate" measures to offset any "material impacts on trade or investment" resulting from "significant divergences" between the two parties.⁷ In theory, this means that neither side should refrain from raising its standards from fear of competitive disadvantages. In practice, the use of unilateral and harsh measures could lead to a tit-for-tat tariff escalation, with definitively negative consequences for cooperation overall and the possibility of "perpetual wrangling and bad feeling between the UK and the EU."⁸

Third, the TCA's proposals for continued cooperation might not be adopted as they depend on political will, which is lacking – particularly on the part of the current British government. For instance, the TCA encourages both parties to cooperate on carbon pricing and "give serious consideration to linking their respective carbon pricing systems".⁹ From a technical perspective, linking the EU Emissions Trading System (EU ETS) with the newly launched UK Emissions Trading Scheme (UK ETS) would have many advantages. It would increase market liquidity and price stability, level the international playing field, avoid competitive distortions, and lower the costs of achieving the mutual objective of net-zero emissions. On these grounds, over 40 EU and UK industry bodies signed joint letters to the European Commission and UK government, urging them to pursue such a link in the run-up to COP26 as soon as possible.¹⁰

Certain conditions are implicit in such linking (i.e. system compatibility, mandatory systems, an absolute cap on emissions), implying that it would come with certain

limitations to the UK's policy autonomy. A tepid statement by the UK government – “no decision on our preferred linking partners has yet been made”¹¹ – suggests that its political will to link to the EU's system is lukewarm.

Although currently fairly similar, dynamics on the EU side (e.g. plans to reform and expand its sectoral coverage), as well as the UK's post-Brexit focus on regulatory autonomy, imply that the ETS systems' compatibility might decrease over time, rendering linkages less likely. While there is a clear cooperation rationale, the primacy of British concerns about regulatory autonomy makes it unlikely that the TCA's provisions for enabling continued cooperation will bear fruit.

Fourth, the TCA is ambitious in its language but fails to offer any concrete mechanisms and/or platforms for coordinating and driving joint ambition. While both parties commit to cooperating in multilateral fora and implementing multilateral environmental agreements, the document's focus is, again, on cooperation on *trade*-related aspects of climate change. The TCA also created an intricate governance structure, including a Partnership Council and multiple technocratic committees and working groups. But there is no new political mechanism for cooperation, which is needed given that the pre-Brexit ones under EU membership are no longer available.

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Overall, the TCA's innovations and ambitious language on climate action set a relevant precedent for EU trade policy. However, in driving ambition and creating spaces and/or tools to coordinate long-term trajectories and strategies between both parties, including in the run-up to COP26, the new climate cooperation partnership falls short.

STATE OF PLAY: BREXIT'S SHADOW OVER COP26

The toxicity of Brexit has evidently seeped into all areas of EU–UK cooperation, including globally shared interests. The latest example is the G7 summit, hosted by Prime Minister Johnson in Cornwall in June. While not an official G7 agenda item, the tensions around the NI Protocol largely overshadowed the summit, and thus the first outing of ‘Global Britain’ on the world stage.

Cornwall demonstrated that Johnson has no intention of insulating EU–UK cooperation on global issues from the politics of Brexit. It also shows the continuation of the very same tactics that caused trust to break down in the first place: threats and provocations, such as unilateral

actions or the suggested triggering of NI Protocol Article 16, to extract concessions from the EU (as well as play to the UK public). Once again, this approach is likely to achieve the opposite. As a community of rules and laws, the EU will only show flexibility if and when it is assured that the UK will implement what has been signed in good faith – not the other way around.

In this high-friction, low-trust context, the TCA's mechanisms risk being politicised, possibly leading to severe economic penalties and a tit-for-tat tariff escalation. The prospect of further escalation and even a trade war does not bode well for EU–UK cooperation overall, and consequently COP26. How can the EU and UK formulate and pursue joint strategies to raise overall ambition at the Conference and beyond, as long as both view the other with great suspicion? The UK suspects that the EU does not want it to succeed post-Brexit, while the EU is increasingly doubtful of Johnson's trustworthiness.

This is not to say that the EU and UK are not coordinating their preparations for Glasgow. On a technical level, there is a regular exchange, including at the highest working level, where European Commission Executive Vice-President for the European Green Deal Frans Timmermans and COP26 President Alok Sharma are said to have a good working relationship. However, cooperation on both the technical and *political* levels will be needed to stay on the right track of keeping the Paris Agreement goal within reach.

Currently, the UK's COP presidency is the primary channel of interaction between the two parties. While more political cooperation is needed, this also raises more general questions about how the EU and UK will communicate in the international climate space post-COP26. This question is “kind of on hold at the moment because of the UK's additional responsibilities”¹² but will resurface in the future.

Usually, global climate negotiations are conducted through groupings of countries, of which the EU is one. It is unclear which negotiating bloc the UK will join after its COP presidency.¹³ Given the UK's current opposition to any form of (institutionalised) cooperation with the EU, it is not expected to show any appetite to join some form of ‘EU-plus’ group. The current government might be more inclined to join the Umbrella Group of industrialised countries: Australia, Belarus, Canada, Iceland, Israel, Japan, New Zealand, Kazakhstan, Norway, the Russian Federation, Ukraine and the US. This likelihood reinforces the need for a space where the EU and UK can work together systematically.

PROSPECTS: A TRANSATLANTIC CLIMATE ALLIANCE?

The TCA's emphasis on shared interests – which put climate change at the core of the EU–UK global agenda in the first place – came with the hope that it would open up new avenues of cooperation, enabling both sides to start rebuilding trust. However, with less than five months to go until COP26, the political will to build on the TCA's ambitious language jointly is missing.

New avenues of cooperation?

For now, the EU has to take note of a UK government that will continue to reject any form of structured cooperation with EU institutions and, even worse, benefits from fuelling the friction. To still have a chance of coordinating (more) effectively, the EU should consider proposing a structure that goes beyond the bilateral EU–UK relationship. For example, both sides might want to coordinate the European position with the US and even other interested third countries. Such a transatlantic triangulation could be an easier political pill for the UK government to swallow and help allay its ideological concerns.

With the momentum of the pro-climate (and pro-European) Biden administration and the UK's desire to be seen as a significant global player, a triangular structure on climate could be difficult for Johnson to turn down. The UK is excluded from the EU's and US' intensified efforts to set a Joint Transatlantic Agenda for the post-pandemic era, including their recent commitment to establish an EU–US High-Level Climate Action Group and Transatlantic Green Technology Alliance. EU reluctance to elevate the UK to the same level as the US is misplaced, given the former's relative size and importance.

Investing in trust-building in all governance levels

There clearly is a need to invest in trust-building. This will be difficult as long as Johnson benefits from the EU–UK relationship being bumpy and conflictual. Nonetheless, the EU should focus more on the subnational level and promote relations between sub-state actors on both sides, such as devolved administrations, regions and cities, civil society, academia and think tanks.

Particularly in climate action, subnational actors play an increasingly important role in exerting pressure and building transnational networks to increase their critical mass and exchange best practices. Given the disruptive nature of Brexit, nurturing subnational links could be a win-win for climate action and rebuilding and/or maintaining trustful EU–UK relations.

There are plenty of examples of deep and structured subnational relations upon which to lean. For instance, the State of California signed 63 bilateral agreements with different transnational actors, 15 of which are European, covering areas like energy, transportation and urban infrastructure.¹⁴ Subnational actors in the EU and UK could benefit from investing in similar agreements.

No time to lose

Climate action is an area with an overwhelming rationale for EU–UK cooperation. Despite the reasonably strong collaboration at the working level, strategic cooperation on the political level is still lacking. Recent events, such

as the G7 summit, show that the EU and UK risk getting caught up in a web of mutual suspicion and distrust, thereby impeding joint global leadership. It is unlikely that the relationship will enter calmer waters in the five months leading to COP26. But as argued by the Intergovernmental Panel on Climate Change, we have less than a dozen years to curb climate catastrophe, and this COP will be crucial in laying the right tracks.

The EU should use its current momentum with the US to mobilise a triangular climate alliance and not leave the UK out of their plans to establish a High-Level Climate Action Group. While they might not see eye to eye on every detail, the three parties broadly want the same when it comes to climate – and an unsuccessful COP would be bad news for all.

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¹ Eurostat (2021), [Euro area international trade in goods surplus €15.8 bn](#), 59/2021.

² BBC, [“John Kerry: UK climate summit is world's 'last best chance'”](#), 28 January 2021.

³ United Nations, [“2021 a 'crucial year' for climate change, UN chief tells Member States”](#), 08 February 2021.

⁴ [“Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community of the One Part, and the United Kingdom of Great Britain and Northern Ireland, of the Other Part”](#) (2020), Part 6, Title III, Art. INST.35. Hereinafter, TCA.

⁵ *Ibid.*, Part 2, Heading 1, Title XI, Ch.7, Art.7.2.

⁶ See Greener UK (2021), [“Greener UK – Written evidence \(EEH0030\)”](#), London: UK Parliament.

⁷ TCA, Part 2, Heading 1, Title VIII, Ch.9, Article 9.4(2).

⁸ Lydgate, Emily; Erika Szyszczak; L. Alan Winters; and Chloe Anthony (2021), [“Taking Stock of the EU-UK Trade and Cooperation Agreement: Governance, State Subsidies and the Level Playing Field”](#), Brighton: UK Trade Policy Observatory, p.8.

⁹ TCA, Part 2, Heading 1, Title XI, Ch.7, Art.7.3(6).

¹⁰ [“The importance of linking the UK ETS with the EU ETS ahead of COP26”](#), 14 April 2021.

¹¹ UK Government (2020), [“Energy White Paper: Powering our Net Zero Future”](#), p.129.

¹² Werksman, Jacob, [“Delivering net zero: How can countries work together to make a success of COP26?”](#), Institute for Government, 11 February 2021.

¹³ The following groups were formed under the Kyoto Protocol: the EU Group, the Umbrella Group, the African Group of Negotiators, the Arab States, the Environmental Integrity Group, the Least Developed Countries, and the Small Island Developing States.

¹⁴ Stranadko, Nataliya (2021), [“EU–US Climate Cooperation: Challenges and Opportunities for the Implementation of the Paris Agreement”](#), Hamburg: Europa-Kolleg Hamburg.