

## The UK in EU Environmental Policy: common responses to common problems

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### What is the state of EU environmental policy?

Environmental policy is an area of shared competence in the EU. Over time, with the growth in EU environmental legislation, more competence in internal policy measures has been moved to the EU level, while external representation in international environmental organisations and negotiations remains shared between the EU and member states. As many environmental problems are 'collective' or 'commons' problems, policy responses necessarily need the buy-in from a multitude of actors, often across borders in a regional or global context, to be effective (Hardin 1968).

EU environmental policy has become ever more ambitious since its beginnings in the 1970s, at least until the mid-2000s (Haigh 2015). It moved member states towards adopting a precautionary approach to environmental protection, and promoted principles such as environmental policy integration across policy sectors for the pursuit of sustainable development (Treaty on the Functioning of the EU, Art. 11). The EU has also tried to upload these principles to the international level by means of its participation in many multilateral environmental agreements. Results of more than forty years of EU environmental policy have shown marked improvements in the quality of the environment and reductions in pollution (EEA 2016). Key early environmental policy measures that still form a strong base in EU policy include the Birds and Habitats Directives (adopted in 1979 and 1992 respectively). In the UK, the implementation of these Directives led to the establishment of 620 'Special Protected Areas', 31 'Sites of Community Importance' and 270 'Special Areas of Conservation', including both land and marine protected sites.<sup>1</sup> EU environmental policy only expanded and grew over the years, with measures on water quality and management, chemicals management, noise pollution, environmental assessment, air pollution, waste management, marine protection, biodiversity protection and climate change being added to the portfolio. Overall, policy measures increased in number and, usually also, in ambition.

The continued high ambition of EU environmental policy was stalled somewhat in the wake of the 2008 economic and financial crises. Member states with pressing unemployment, debt, and competitiveness concerns became less interested and less

By bundling the manifold policy expertise of the researchers of the Institute for European Studies (IES), this paper forms part of a series of analyses investigating the potential implications of a 'Brexit' scenario for different EU policies. All papers ask the same three questions: 1) What is the state of the EU policy in focus? 2) What is the UK's role/interest in this policy field? 3) What are the potential implications of a 'Brexit' scenario at the policy-level?

After Claire Dupont and Florian Trauner [introduce the project](#), Richard Lewis sets [the historical and cultural context](#) and explains how the UK and the EU have come to such a low-point in their relations. Next, five policy fields are analysed: [justice and home affairs](#); [free movement policies](#); [EU external representation](#); [the \(digital\) single market](#); and [environmental policy](#).

pressured to move forward on innovative and far-reaching environmental policy measures (Dupont & Oberthür 2016). Nevertheless, the EU as a whole remains a leading actor in many environmental policy areas, and has been striving to be an international leader on climate change, in particular, since the early 1990s (Groen 2015). This international stance has helped keep climate change on the agenda. It resulted in active EU diplomacy in the run up to the Paris climate change negotiations in December 2015. These negotiations culminated in the Paris Agreement, which can be considered a success. The Agreement includes calls for higher ambition to keep global temperature increase well below 2°C, or even 1.5°C, compared to pre-industrial levels. The success of the Paris negotiations is partly thanks to the EU's diplomatic efforts, and can also be considered a win for

the EU's leadership role on climate change (Oberthür and Groen forthcoming). Despite these improvements, much remains to be done across the environmental field (notably in air, water and soil quality, in transitioning away from fossil fuels in a timely enough fashion, and in the protection of ecosystems) to protect and improve the quality of the environment (EEA 2016). The underlying philosophy of EU environmental policy has changed over time, with narratives justifying action based on balances between 'costs' and 'benefits' gradually displacing the lauded precautionary approach (Gollier & Treich 2003). This has led to a situation where environmental policymakers need to demonstrate multiple (economic) benefits to justify taking action.

Finally, the growth of the EU's environmental policy has often been a centre-point for the development of policy in other sectors (such as energy), leading to ever more environmental policy measures. It is a prime example of how policy sectors are intertwined. Environmental policy objectives also need to be taken into account in the development of policies in other sectors (for example through green budgeting, which uses environmental criteria to allocate a budget in a certain policy area) (Jordan & Lenschow 2010). As such, EU environmental policy has sometimes provided a hook for spillover developments in closely interconnected policy fields (Haigh 2015). EU climate policy, for example, has become 'climate and energy' policy (Oberthür & Pallemarts 2010; Jordan et al. 2010). Considering the challenges of climate change and energy supply, such interconnections make sense, but also result in increased perceptions of 'Brussels' driving policy in member states, although EU policy is anyway negotiated among member states themselves.

### What is the UK's role in EU environmental policy?

When the UK entered the EU in the early 1970s, environmental policy was largely untouched at EU level, and national governments were in charge of the field. The UK was developing policies in response to its own environmental problems (like air pollution issues as demonstrated by the 'Great Smog' of 1952). However, environmental issues are complex interconnections of human activity across borders. Transboundary cooperation – at the EU and international levels – grew in the following decades, with international agreements on acid rain (the 1979 Convention on Long-Range Transboundary Pollution), ozone layer protection (the 1985 Vienna Convention for the Protection of the Ozone Layer and its 1987 Montreal Protocol) and on climate change (the 1992 UN Framework Convention on Climate Change and its 1997 Kyoto Protocol), for example, to which the UK (and the EU) are parties (Burns et al. 2016).

EU policy developments often responded to the international agenda on environmental policy governance by implementing specific measures to tackle

an issue. Increasingly (since the 1990s), however, the EU has helped to set the agenda at international level and has also developed original policy frameworks that set unofficial standards or that have been taken up in other jurisdictions (such as the REACH legislation on chemicals) (Biedenkopf 2012). Thus, the EU has increasingly aimed to 'lead by example' in international environmental policy, by both agreeing to stringent commitments internationally and developing ambitious policy measures internally to meet or surpass these commitments (Oberthür & Roche Kelly 2008).

From being ambivalent towards environmental action in the 1970s and 1980s, when the UK was dubbed the 'dirty man of Europe', the UK moved to becoming an environmental actor within the EU. It adapted its own environmental governance structures in response to EU developments and also increasingly shaped the form and stringency of EU environmental policy (Burns et al. 2016). It pushed for environmental policies that were aligned with the UK's vision of a free market economy. The UK became a leader within the EU on climate change and was instrumental in driving the development of greenhouse gas (GHG) emissions trading within the EU in response to climate change (leading to the adoption of the EU Emissions Trading Scheme). The UK today is part of the pro-climate action 'Green Growth Group' of member states and is generally a leading member state on environmental action. The UK pushed for agreement on a target to reduce GHG emissions in the EU by 20 per cent by 2020 in 2007 and for agreement on a target to reduce emissions by 40 per cent by 2030 (Jordan et al. 2010; Dupont & Oberthür 2015). It has also done well out of a number of EU policies on the environment, for example on marine issues. As a state with a large coastline and significant marine resources, the UK benefits from the EU's marine strategy framework Directive, the maritime spatial planning Directive and other instruments that outline a common legal framework for the sustainable development of maritime industries, such as offshore wind energy and the fishing and aquaculture industries.

More recently, the UK has also been a driving force behind the EU's turn towards better regulation (REFIT – regulatory fitness), which, from the perspective of environmental policy, often means 'less policy'. The understanding of 'better regulation' stemmed from the review of the Lisbon Strategy to 2020 (in 2005) and focused on regulatory impacts on jobs and growth, while ignoring the importance of sustainable development for achieving such goals. Much of the EU's environmental policy has come under question under this push, with established policy measures under threat of being reopened for negotiation and watered down, and proposed measures being weakened or withdrawn (Wilkinson et al. 2005; Radaelli 2007; Taylor et al. 2012). At international level, the UK has acquired a prominent role in shaping EU external environmental and climate policy and diplomacy. Building on its strong diplomatic network across the

world and its wealth of diplomatic experience and expertise, it has been able to shape European environmental diplomacy in the EU's 'Green Diplomacy Network' and beyond, while also benefitting from the capacities of other member states (e.g. special external relations of France, Spain and others). In doing so, it has contributed to, and benefitted from, enhanced EU influence through the pooling of resources by EU member states, including in climate geopolitics (Oberthür 2016). A major source of the EU's international influence has been ambitious internal policy and thus 'leadership by example' based on the EU's 'market' and 'regulatory power' (Damro 2015). Overall, coordination of international environmental policy and diplomacy within the EU has been a win-win for the UK and the EU.

### What are the potential implications of a 'Brexit' scenario?

In the case of a Brexit scenario, we can hypothesise that there would be implications on 1) the UK's environmental policy standards, 2) the EU's environmental policies and 3) the strength and influence of both the UK and the EU in developing international environmental standards.

First, the UK's own environmental standards may be affected. Many environmental NGOs and experts suggest that if the UK were to leave the EU, its own environmental policies and standards would be compromised, especially over the longer term.<sup>2</sup> Today the general contours of national environmental policy are agreed first in concert at the EU level. We could thus assume that with Brexit, as the UK will no longer be bound by these policy developments, it may choose to water down or abandon a number of measures that are perceived as too costly. However, there are alternatives to such a scenario. We could also envision that national policymaking procedures may allow the UK to have more freedom to adopt environmental policies that are ambitious, and that can be adopted and implemented more swiftly than at the EU level. Nevertheless, it is likely that where environmental protection measures are costly upfront, acting alone would be more difficult than acting collectively. At present, member states within the EU are anyway permitted to adopt more stringent measures in several areas of environmental policy.<sup>3</sup> We could also envision that future UK national environmental policies will be more linked to the specific national and local environmental problems, with adaptation to negative impacts becoming ever more important. A last possibility is that the UK would anyway (need to) take on the environmental policies and standards of the EU, especially related to product standards or process impacts, given that trade in products with the EU will remain a key part of the UK's economy whether it is in or out of the EU. Furthermore, effective environmental policies often require a multitude of (cross-border) implementing actors. The UK will also be a party to various international

environmental agreements that will to some extent limit its room for manoeuvre if it decides to roll back its environmental policy ambition – environmental agreements that anyway inspired or required some EU environmental policies.

Second, for the EU, the exit of the UK may lead to a readjustment of the coalitions within the Council. At present, the UK is a member of the Green Growth Group, which regularly supports action to protect the environment, and, in particular, to combat climate change. Without this influential member, the strength of the group is likely to decline in face of mounting influence of less enthusiastic member states. This thus could lead to a situation where EU environmental policy itself becomes less ambitious, with more discretion given to member states to implement overarching environmental 'objectives' as they see fit. Competing priorities may pull attention away from environmental issues. An example of how new internal (less ambitious) coalitions may impact the strength and success of EU environmental policy can be seen in the proposed framework for climate and energy policies to 2030 (European Council 2014). In this case, member states have agreed to one EU-level binding target for reducing GHG emissions by 40 per cent by 2030 compared to 1990 levels, combined with an EU-wide renewable energy share target of at least 27 per cent (no longer including binding targets for each member state as was the case in 2009), and a non-binding commitment of at least 27 per cent improvement in energy efficiency by 2030. Given that the EU has already achieved about 24 per cent GHG emission reductions in 2014 (EEA 2015), and is also set to achieve more than 20 per cent share of renewable energy by 2020, the suggested targets do not demonstrate the level of ambition that one could expect from an international leader on climate change. Without the UK pushing for ambitious measures, the EU may struggle even to achieve the targets already agreed in 2014.

Third, the UK and the EU would both likely see a decline in their influence in global environmental governance. This decline could stem from their relative reduced weight, but the risk of weaker policies in both the EU and UK would also hamper leadership, which often emanates from the ability to demonstrate successful domestic policy measures. Overall, the EU and UK may also lose out on the opportunities presented by the transition to a low-carbon economy, including technological development, the opening of new markets and heightened research expertise in a growing economic sector. The EU allows for ease of research cooperation across borders and the single market boosts opportunities for trade in innovative products. These hypotheses are not the only options that can be envisaged under a Brexit scenario. Environmental policy ambition may increase as environmental and climate crises become more acute, but it is more likely that the increase in

ambition both within the EU and the UK would be lower and slower than if the UK remains an active EU member, where it can push for and be pushed by sufficient collective action.

## Endnotes

1. <http://jncc.defra.gov.uk/page-23> and <http://jncc.defra.gov.uk/page-1399>, accessed 29 February 2016.

2. [http://www.green-alliance.org.uk/page\\_2040.php](http://www.green-alliance.org.uk/page_2040.php), accessed 26 February 2016.

3. Article 193 of the Treaty on the Functioning of the EU: 'The protective measures adopted pursuant to Article 192 shall not prevent any Member State from maintaining or introducing more stringent protective measures. Such measures must be compatible with the Treaties. They shall be notified to the Commission.'

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