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The potential policy and environmental consequences for the UK of a departure from the European Union

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Summary of the report

This report considers the potential consequences for the environment and for environmental policy of the UK choosing to withdraw from the EU, based on different scenarios for the UK's future relationship with its neighbours. The assessment identifies potential influences on the decisions to be made in a future outside the EU, including international agreements, the changing context and already established UK policy positions. It builds on an overview of the EU's record, particularly in developing and applying environmental policies, but also in relation to agriculture and fisheries policy.

EU policies affecting the environment

Although the environment was not accorded much consideration in the early years of the EU's development, this has changed dramatically. A comprehensive set of policies has been established, forming what is now one of the most influential bodies of environmental law in the world.

This transition was brought about only with the active engagement and explicit agreement of European governments, including the UK, through a legislative process that requires the agreement of a substantial majority of countries. Indeed, the UK has been among the most influential Member States in the shaping of EU policies. There is now close integration between UK, EU and international environmental law. Separating them would be a considerable challenge and a source of significant uncertainty.

Beyond this are other EU policies which have a significant environmental impact, including those on agriculture, fisheries, research and development, trade, overseas development and foreign affairs. Two of these – the Common Agricultural Policy (CAP) and the Common Fisheries Policy (CFP) – are of particular relevance in the Referendum debate, and are therefore assessed in more detail in this report. Both would cease to apply in the UK if it were to leave the EU, regardless of the scenario for its future international relationships. Immediate questions about the environmental consequences would arise.

The EU's role in environmental policy

The development of environmental policy in the EU took place over several decades starting from the 1970s, and continues today; it has revealed some of the strengths and weaknesses of adopting a common EU approach. It is based on the logic that many environmental issues are cross-border in character or impact, and are better addressed by co-operative action than unilaterally. Being part of a strong unified bloc has allowed the EU to have an influential voice within international negotiations on global environmental issues. In parallel, the growing importance of the single market has provided impetus to create common EU rules, particularly for product standards, permitting and target setting procedures. This helps to avoid problematic differences in national rules as well as distortions in competition.

The relatively demanding process for agreeing measures within the EU can extend over many years, especially when the issues in question are complex, and compromises between different visions for environmental protection are often necessary. Once agreed, however, the broad geographical scope of the measures can have a major impact. Several of the most important measures (on water quality, climate, waste, etc.), involve requirements to meet medium- or long-term targets. This approach provides a clear sense of direction and momentum and, in many countries, it facilitates a more ambitious approach than they might feel able to adopt if they were acting on their own.

The EU's expansion to 28 countries has created a wider diversity of conditions, interests and views, and added to the complexity of negotiations. National concerns need to be accommodated where possible to take account of existing regulatory traditions, and to reflect the specificity of the policy issues within each Member State. It is also necessary in order to respect the important legal principle of "subsidiarity", which seeks to ensure that the EU only acts when it is clearly preferable for action to be taken at EU level.

The process for developing legislation can be lengthy, partly because it is much more open to the checks and balances of democratic processes at national and European level than the media portrayal of the EU often recognises. Once agreed, however, measures are changed rather infrequently, creating considerable confidence in the underlying legal framework and the long-term policy direction. This helps both public authorities and private investors to plan ahead with greater confidence. A record of relative consistency, backed up by a system of strategic forward-planning based on periodic reviews of future challenges, has proved one of the benefits of acting at EU level.

These political and economic considerations have been underpinned by the cross-cutting references to environmental principles in the EU Treaty, and by the formal overall goal of sustainable development, which has no direct counterpart in UK legislation.

The adoption of common rules for products, and of relatively consistent processes and standards in all Member States, is intended to avoid distortions to competition and to prevent governments from lowering national standards to benefit their own industries. Many businesses have benefitted from the establishment of these common rules and from a more harmonised approach. High common standards have created a new and sizeable market on a predictable timescale for a wide range of greener products, ranging from more efficient electrical white goods through to cars and household goods with fewer toxic chemicals.

Whilst rising standards have generated some costs, particularly in some established industries where investment in cleaner production systems has been required, they have also created new markets and business opportunities. There have been both positive and negative effects on employment, which are difficult to quantify for EU environmental policy as a whole. However, "green" industries now account for a significant proportion of new investment and employment in the UK, and the emerging EU initiative to build a "circular economy" could expand this market considerably further.

Overview of key environmental achievements of the EU

The following are some of the key environmental achievements of EU countries working together within a common legislative framework that would have not occurred at the same level if they had acted alone:

- A substantial decline in most industrial sources of air and water pollution, particularly in improving urban air quality and in tackling diffuse water pollution, for example from farming.
- A fall in greenhouse gas emissions and rapid recent growth in the deployment of renewable energy.
- Significant reductions in the pressures on human health from environmental pollution.
- A significantly improved system of protection for species and habitats.
- A transformation in waste management, with a major increase in recycling rates and the first steps towards the creation of a more circular economy.
- The establishment of a thorough system for the review of the safety of chemicals that can be expected to lead to the future withdrawal and substitution of various toxic substances.
- The foundations for addressing the mounting pressures on the marine environment in the form of a legislative framework which is starting to have an effect.
- Improvements on access to information, public participation and access to justice in environmental matters at EU level.

- The wide application of environmental impact assessment and strategic environmental assessment procedures (also adapted and used by the European Investment Bank as conditions for all infrastructure investment decisions inside and outside the EU).

Future scenarios

There is significant uncertainty about the nature of the UK's future relationship with the EU following a vote to leave. The wide range of potential scenarios can, however, obscure the debate on the impacts to be expected. In order to clarify the potential environmental consequences, we identify the two primary options that appear open to the UK. These are based on whether the UK retains access to the EU's internal market or not.

The first scenario represents an arrangement whereby the UK retains access to the internal market through membership of the European Economic Area (Scenario 1 '*inside the EEA*'). This is broadly the status that Norway currently enjoys. In the second scenario, the UK would position itself outside both the EU and the other principal European Agreements (ie the EEA and EFTA). Therefore, this scenario includes the alternatives where the UK has no preferential access to the internal market and no representation within the EU decision-making process (Scenario 2 '*entirely outside*').

Some of the key policy implications are summarised in the table below.

	Membership of the European Union	Inside the EEA Brexit Scenario 1	Entirely outside Brexit Scenario 2
Does the UK retain access to the EU Single Market?	Yes	Yes	No, all access to be negotiated
Does it contribute to EU budget?	Yes	Yes (budget contribution would probably fall, however)	No, unless negotiated as part of an access deal
Do the CAP and CFP apply?	Yes	No	No
Do EU environmental laws continue to apply to the UK?	Yes	Most of them will, with some exceptions e.g. the nature directives and Bathing Water Directive.	No, but UK exporters will need to comply to export into the EU
Does the UK have a say in the formulation and amendment of EU policy on the environment?	Yes	EEA countries are only consulted during the preparation process for legislation. They do not take part in the formal negotiations, and cannot vote; and they have no MEPs to influence legislative outcomes through the European Parliament.	No
Would the UK continue to be subject to mechanisms to ensure compliance and penalties for non-compliance?	Yes	Yes, the European Commission retains enforcement powers and fines can be imposed for non-compliance.	No
Would it be necessary to negotiate new trade arrangements which could have impacts on environmental standards?	No	In some areas, yes, including in relation to agriculture and fisheries.	Yes, across a wide front.
Could a future UK	Only by means of an	Not in the majority of cases	Yes; although UK

government lower current environmental standards in the UK?	agreement at EU level	where they are covered by EU obligations.	exporters would need to abide by EU product standards, as well as face tariffs in many sectors
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Under **Scenario 1** (“inside the EEA”), most EU environmental law would continue to apply to the UK with some important exceptions, notably the nature (Birds and Habitats) and Bathing Water Directives. A future government would have the scope to weaken the level of environmental protection in the UK in those excepted areas. This represents a risk that is not balanced at present by any clear evidence of strong ambition by UK governments, for example, to pursue all the goals of EU nature conservation legislation. The CAP and the CFP would cease to apply, almost certainly giving rise to changes in policy, expenditure and environmental outcomes. At the same time, the UK would be excluded from decision-making over EU policy and from participating as part of the EU in international negotiations on a range of environmental agreements. Nor would the UK be likely to significant exercise influence over the EU’s position in those negotiations. This appears an unequivocal drawback of departure. Meanwhile, the UK would continue to contribute substantially to the EU budget.

Under **Scenario 2** (“entirely outside”), future UK governments would in principle have the scope to adopt either stronger or weaker environmental standards than at present. Judging by UK government responses to a range of environmental proposals from the European Commission in recent years, it seems more likely that the current government, and possibly its successors, would opt for a less ambitious approach than that adopted by the EU in a number of areas, including air pollution, recycling, and aspects of nature conservation. There is a risk that a future government might seek to use arguments claiming that in order to maximise UK competitiveness, it would be necessary to lower standards, including environmental ones. Such an approach, and even the perceived risk of it being adopted, can be expected to create increased uncertainty for business investments in general, and for green businesses in particular.

Finally, if the UK remains in the EU, it remains bound by existing environmental legislation and can play a significant role in future decisions, including the adoption of new measures and the amendment of existing ones. Equally, it can influence the future of the CAP, the CFP and other policies affecting the environment, including trade (the UK is an active supporter of TTIP). Within the EU, it will be in a position to contribute to the shaping of a series of important decisions, for example on climate and energy policy (with major proposals due in 2016), the future of the “Better Regulation” agenda, and the development of a “circular economy” – a key EU project for the next decade or more.

Analysis of different policy areas

This report explores the implications of departure from the EU in a series of chapters covering different themes. The main conclusions from each chapter are outlined below, followed by a set of overarching conclusions on the environmental impact of the choice to be put before the UK electorate in the referendum in June 2016.

Environmental Quality

The establishment of more stringent environmental standards within the EU single market has had significant environmental and health benefits in the UK. Decades of EU air protection legislation, as well as water and waste management policy in the EU, have resulted in better air quality for the UK, dramatic improvements in waste recycling, and much higher quality of bathing waters and rivers and coasts with far lower pollution levels than before. During the last four decades, the UK has shown a strong record of providing scientific and policy advice to the development of EU legislation regarding environmental quality. However, many of the initiatives to improve environmental quality in the UK

would not have taken place, or would not have been pursued as effectively, without the legal pressure arising from EU legislation and the benefits to citizens and businesses would not have been realised.

Although there are differences between the different policy areas, most of EU legislation regarding environmental quality would still apply if the UK were to remain within the EEA (Scenario 1). That is particularly true for air quality legislation, most of the Water Framework Directive, the three main legal mechanisms controlling pollution emissions, and the Waste Framework Directive. However, under this scenario, the UK would not be part of the official decision making processes, and thus would not be able to argue to adapt future legislation to the specific interests of UK citizens. Under Scenario 2 (entirely outside), most of environment legislation would no longer apply, and the UK would be free to relax and lower environmental standards, creating as a result a scenario with real and uncertain environmental and health risks.

Nature Protection

EU legislation on nature conservation has significantly benefited both terrestrial and marine wildlife in the UK by requiring wide-ranging action that otherwise probably would not have been required. The role of EU legislation is likely to continue to be particularly important given, for example, cross-border threats to biodiversity, such as invasive alien species and climate change. To continue working together with the long-term approach adopted in the EU will be essential in order to achieve the target of halting the decline of habitats and species.

The risks of withdrawing from the EU are significant for nature. Regardless of the departure scenario, the Birds and Habitats Directives – policies that are the backbone of conservation in the EU and both of which have generated significant improvement for species and habitats – would no longer apply. Instead, the UK government would be at liberty to change this legislation and the processes in place to deliver it. International environmental law, notably the Bern Convention would continue to apply; however, it does not offer the level of protection nor the enforcement measures provided by the nature Directives and EU membership. In terms of marine nature conservation policy, if the UK becomes part of the EEA following departure from the EU (Scenario 1), the Marine Strategy Framework Directive (MSFD) would continue to apply, and the UK would remain bound by this Directive’s ambitious targets without being able to influence its development. Under Scenario 2, the MSFD would not apply and the UK government would be free to loosen the provisions over time.

Climate Policy

The UK has, over recent decades, exercised significant influence over the development of EU climate and energy policy, and over the levels of ambition the EU brings to international negotiations. The consensus among the main UK political parties in favour of a relatively ambitious approach to climate mitigation targets, which has held through a succession of General Elections, has thus been capable of being pursued in a European context, with relatively limited impact on competitiveness of UK firms vis a vis their competitors in other EU member states. Were the UK to leave the EU, it would face a combination of greater risks to its own, current, domestic decarbonisation ambitions; reduced influence over international negotiations on climate; and a likely reduced level of ambition in EU policy on climate change. It would no longer be possible to exert the same level of influence over decision-making at European level, and thus on the constraints facing UK industry’s competitors in other EU member states.

This assessment in part reflects the necessarily international nature of delivering climate mitigation objectives; in contrast, an alternative policy of significantly reduced UK ambition on climate mitigation would be easier to deliver from outside the EU’s legislative framework. While such a shift

in policy would remain unlikely even in the event of a “Leave” vote, the added policy risk for low carbon investment would have an impact on the costs and effectiveness of UK mitigation policy.

Agricultural Policy

The CAP has been a force for maintaining production in Europe and keeping it higher than it is likely to have been under free market conditions, or under the more liberal policy regime generally favoured by UK governments. This has created pressures on the environment from enhanced production and input use whilst also helping to maintain more traditional low-input and high-nature-value farms. The CAP cuts both ways. Indeed, there is no simple relationship between the level of subsidy and the extent of environmental pressure from farming, as is often assumed. Some of the most intensive and potentially polluting sectors, such as pigs and poultry, receive the least subsidy from the CAP or none at all. Since the 1990s, the CAP has been subject to a series of reforms which have helped to increase its environmental orientation, sharply reduced production subsidies and their harmful impacts. Payments for environmental management on farmland have grown sharply. Nonetheless, considerable distance remains between the present model and a truly ‘green’ agriculture policy, and there are major concerns about the current “greening” provisions.

It is far from clear whether the UK environment would be better served by a new set of national agriculture policies, which would follow from Brexit. Major variations between England, Northern Ireland, Scotland and Wales are likely. However, established UK policy, strongly supported by the Treasury, is to cut expenditure on agriculture. Consequently, there are major questions about how far a future government would maintain funding for managing the rural environment as well as for agriculture. The majority of experts on the topic are sceptical and expect significant cuts. Incentives for greener farming could decline, and there are also concerns about the extent to which governments would be willing to impose environmental obligations on a sector subject to competition from more subsidised counterparts in the remaining EU Member States. All in all, there would certainly be significant environmental risks associated with departure.

Fisheries Policy

Fisheries and the EU Common Fisheries Policy (CFP) are frequently mentioned by critics as an important reason why the UK should leave the EU. During the evolution of the CFP, the performance of the policy in environmental terms has been unsatisfactory in many respects and much further progress is required. Other transnational fisheries management regimes have suffered from similar weaknesses. However, the recently reformed CFP is now steering in the right direction in terms of reducing the environmental burden imposed by industrial-scale fishing in the EU. Meanwhile, whilst it is an important driver, the influence of the CFP in the long decline of the UK fishing fleet should not be overstated.

It is relatively certain that no matter what the Brexit scenario, the CFP would cease to apply in the UK and establishing a new policy regime would likely involve a considerable number of difficult negotiations. This would include politically sensitive discussions between the devolved British jurisdictions, as well as negotiating new fishing agreements with other states, as most stocks in UK waters migrate to and from neighbouring waters and British fishermen today operate also in other states’ waters. There are no grounds for confidence that Brexit would lead to closer alignment of “Total Allowable Catch” levels for fish in UK waters to scientific advice, nor that an immediate “greening” of British fisheries subsidies would follow. Overall, this assessment makes it clear that – compared to any foreseeable alternative – cooperative management of fisheries within the EU policy framework is relatively beneficial for the sustainability of stocks. Departure from the CFP would instead introduce several unwanted risks and great caution needs to be exercised in forecasting what could be achieved unilaterally. The fact that international marine law does not provide the means to ensure compliance is, for example, a very substantial weakness.

Horizontal Conclusions

The bulk of the analysis in this report is subject-specific, and the key elements of each chapter of our analysis are set out above. It is also possible to identify some over-arching, horizontal conclusions:

- Membership of the EU has had, and continues to have, a significant positive impact on environmental outcomes in the UK as well as other parts of Europe, with cleaner air, water and oceans than otherwise could be expected.
- This is because of a range of legislative, funding and other measures with the potential to work in combination. EU environmental legislation is backed up by a hard legal implementation requirement of a kind that is rarely present in international agreements on the environment; and which is more convincingly long-lasting, and less subject to policy risk, than national legislation.
- Complete departure from the EU (Brexit Scenario 2) would create identifiable and substantial risks to future UK environmental ambition and outcomes. It would exclude the UK from decision making on EU law and there would be a risk that environmental standards could be lowered to seek competitive advantage outside the EU trading bloc.
- Departure from the EU whilst retaining membership of the EEA (Brexit Scenario 1) would lessen these risks, as most EU environmental law would continue to apply. However, there would be significant concerns related to nature conservation and bathing water, as well as to agriculture and fisheries policy. In addition, the UK would lose most of its influence on EU environment and climate policies.
- Under both exit scenarios, significant tensions would be created in relation to areas of policymaking where responsibility is devolved to the governments in Scotland, Wales, and Northern Ireland, but where a broadly similar approach has been required as a result of EU membership, including environmental protection, agriculture, and fisheries.
- The uncertainty and period of prolonged negotiation on many fronts caused by a UK decision to leave would, itself, create significant risks both for environmental standards and for the green investment needed to improve the UK's long-term environmental performance.

In conclusion, it is likely that a UK departure from the EU would leave the British environment in a more vulnerable and uncertain position than if the country were to remain as a member of the EU. A future government could either have to accept decisions others will make for them, with a more limited opportunity to pursue goals or influence legislation in ways that are relevant for the British people; or could be relatively unconstrained in its ability to act independently, including through the option of lowering environmental standards in a race for competitive advantage. While these risks differ in character and scale, they are substantial on all the plausible scenarios considered here. These risks apply to over four decades of legislation with a broadly successful track record in protecting the UK's health and environment.

Conclusions

Although there are several scenarios, and variations of them, that could arise following a UK departure from the EU, our analysis focuses on the two primary alternatives that emerge from whether or not the UK retains access to the EU's single market. They have rather different consequences and need to be distinguished.

- In Scenario 1 ("*inside the EEA*"), the UK remains inside the European Economic Area. Under this scenario, the UK would remain bound by most EU environmental laws and still make significant contributions to the EU budget. However, it would have no voice within the EU decision-making processes.
- In Scenario 2 ("*entirely outside*"), the UK decides to position itself outside any European grouping, thus losing privileged access to the single market. This option represents a much more decisive step away from the obligations set out in EU legislation – and involves much greater uncertainty about the future.

The negotiations that would follow a vote to leave the EU will be lengthy and will unavoidably create a high degree of uncertainty. Although it is difficult to forecast the results of these negotiations, there must be doubts that the EU 27 would wish to agree to any arrangement that granted the UK privileged access to the single market without requiring compliance with the bulk of the obligations that apply to EU members. Consequently, intermediate scenarios are likely to involve compliance with a large body of EU environmental law, if not the full suite applying within the EEA. On the other hand, Scenario 2, where the UK is more clearly separated from the EU as a trading bloc and negotiating fresh agreements with a multiplicity of partners, suggests that liberalisation is likely to be a central tenet of policy in future governments. The temptation to lower standards and lighten compliance procedures would be very considerable in these circumstances, even if that was not the intention at the outset. Environmental standards that impinged on economic interests could be most at risk in the race for competitive advantage over other countries.

From an environmental perspective we can be fairly confident that the challenges for the coming decade or more will include:

- Implementing the Paris Accord, implying a progressive escalation in climate mitigation efforts and tighter targets;
- Making further efforts to halt and reverse the continuing decline in biodiversity, responding to the requirements of the Convention on Biodiversity, not to mention EU targets;
- Putting in place a more circular economy, including a reduction in waste, tackling built-in obsolescence, and reducing Europe's and the UK's level of natural resource consumption;
- Managing the seas and oceans in ways that address pollution, degradation and over-exploitation of resources; and
- Building a more sustainable agriculture and food system that incorporates better soil and water management, reduced environmental impacts, more space for nature and less wastage.

This agenda will require action at a variety of levels from the global to the local. However, most require an enhanced degree of cooperation and coherence; governments working actively together as much as businesses cooperating within the supply chain. The European institutional framework and the decision-making machinery offered by the EU, despite its imperfections, fills some of the requirements for accelerating cooperation in ways that increasingly are necessary. The setting of ambitious targets and negotiation of compromises along the way, as occurs in the EU, will be

required for many different issues. If the UK intends to be a significant actor in this sphere it is not the obvious time to step back from Europe.

In conclusion, it is likely that a UK departure from the EU would leave the British environment in a more vulnerable and uncertain position than if the country were to remain as a member of the EU. A future government could either have to accept decisions others will make for them, with a more limited opportunity to pursue goals or influence legislation in ways that are relevant for the British people; or could be relatively unconstrained in its ability to act independently, including through the option of lowering environmental standards in a race for competitive advantage. While these risks differ in character and scale, they are substantial on all the plausible scenarios considered here. These risks apply to over four decades of legislation with a broadly successful track record in protecting the UK's health and environment.