



The unknown landscape of a post-Brexit UK: Implications for the transition from Unsustainability

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Disclaimer from a Remainer....



“However, we are not uncritical in our support of the European Union, we do not advocate staying in an unreformed EU. And the TTIP of the iceberg of what needs reform and transformation here is the Transatlantic Trade Investment Partnership between the USA and EU that would in our view be a social, economic and environmental disaster.

So in conclusion, we in the Green Party support staying within the EU, but only as part of a wider and longer struggle to transform it to realise its potentials. The real debate is not over whether we stay in or out of the European Union, but what sort of Europe we want.”

John Barry, 26th May, 2016, Belfast

The 'known and unknown knowns' of 'we are where we are' ... 'going forward'

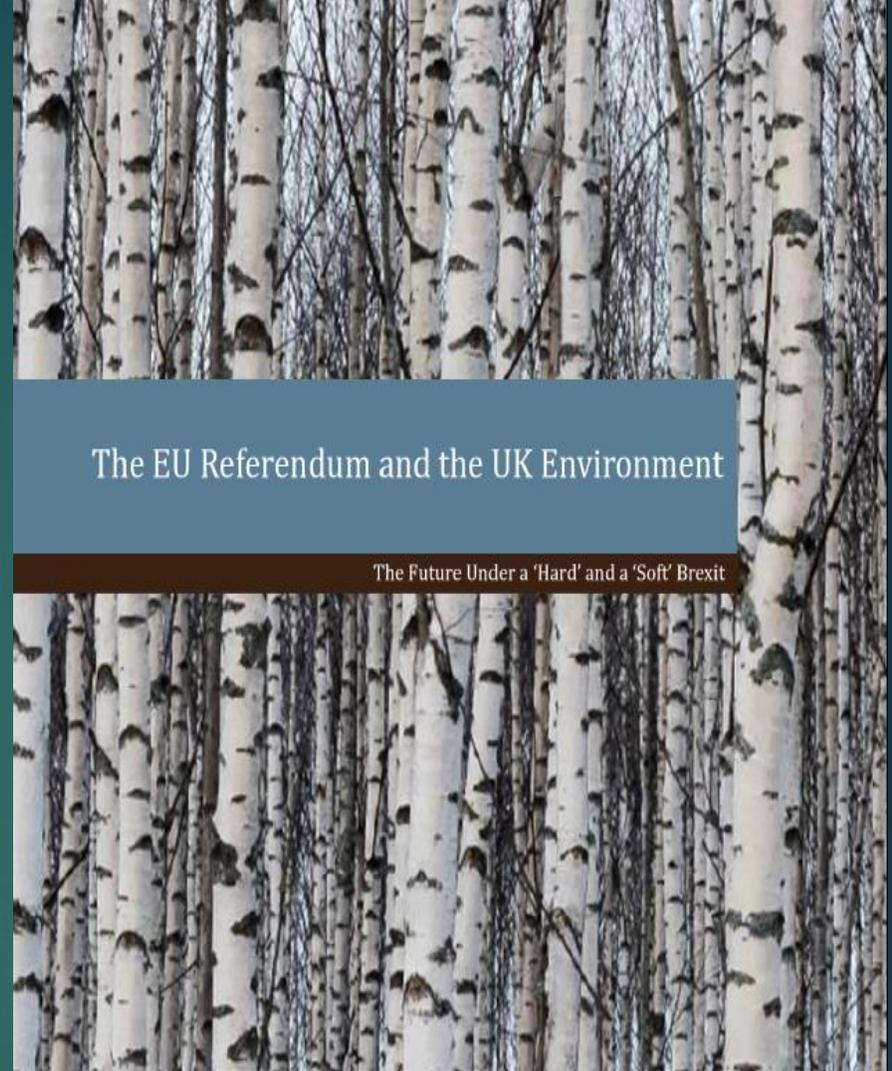
All is uncertainty

Hard Brexit or soft Brexit –

Going global and free trade or
the Norwegian option, joining the
European Economic Area

Or some combination





The EU Referendum and the UK Environment

The Future Under a 'Hard' and a 'Soft' Brexit

Prior to the referendum, the UK Government (HMG 2016) identified three broad options:

- The EEA 'Norwegian Option' which would allow the UK privileged access to the Single Market but which would be accompanied by EU obligations over which the UK would have limited say.
- A negotiated bilateral option (similar to the EU's relationship with Switzerland) which would allow the UK some access to the Single Market depending upon the nature of deals negotiated, and the UK would have to abide by many Single Market regulations again with little say in the content of those regulations.
- No special bilateral agreement and no preferential access to the Single Market. UK access to the EU would be dealt with under existing WTO rules.

Burns, Jordan and Gravey, 2016

Soft Brexit – Norwegian option – leave EU but join the EEA

If the UK leaves the EU but joins the European Economic Area then most of the environmental *acquis communautaire* will continue to apply apart from habitats, birds, bathing water, CAP, CFP, and some other pieces of legislation.

If we leave the EU but remain in the single market, most energy policy would be unaffected: state aid rules will still apply, as would product standards such as ecodesign, as well as most directives such as the Industrial Emissions Directive, but, crucially, we would no longer have a say in making the rules. If we leave the single market, we will no longer be obliged to comply with EU policy, and a lengthy legal process will ensue to disentangle the large body of EU-related UK laws and regulations

UK still subject to EU environmental (and other) regulations but no right to shape them

Hard Brexit – ‘Global Free trade’

UK to negotiate access to the EEA via WTO rules

Environmental regulations that are a condition of access to the single market are still in place – UK still a ‘policy-taker’ not a ‘policy-maker’ in EEA

Likely lowering of environmental standards to minimum, and environmental regulation dependent on who is in power in government

On quality, as for policy, the UK will continue to be bound by international commitments, which are significant for drinking water, chemicals regulation, and transboundary air and atmospheric pollution. However, as noted above there is still risk of lower standards as these international rules

Governance and policy-making



UK and devolved administrations have enjoyed the support of The European Commission, the European Environment Agency and the European Parliament.

If 'Brexit mean Brexit' - new systems of policy will need to operate within new systems of governance and new institutional systems, including systems of national parliamentary scrutiny.

And uncertainty as to whether these UK bespoke arrangements will be better or worse than what they are replacing, issue of problems of new systems being devised and bedding in, uncertainty and lack of ambition, etc

UK environmental NGOs will be weakened – loss of funding, networking, lobbying, etc as will UK government departments since they will not have the expertise of the EU to rely on

Implications for Northern Ireland

Northern Ireland has the least protected environment in the UK and Ireland.

No independent environmental protection agency

An ineffective environmental watchdog - the Environment and Heritage Service prior to a rebranding exercise in 2008 when it became the Northern Ireland Environment Agency, an agency of the Department of the Environment.

Importance of the EU and European Commission to protect our environment.

Coupled with promotion of 'economic growth' over well every thing else

Irish Political Studies
Vol. 24, No. 1, 45–66, February 2009

 Routledge
Taylor & Francis Group

'It Ain't Easy Being Green': Sustainable Development between Environment and Economy in Northern Ireland

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Politics and Article 50

Economic issues have dominated discussions of post-Brexit negotiations and triggering of Article 50 (interesting to compare with pre-referendum discussion of economics?)

Not much discussion of the environment, environmental protection or sustainable development

Indeed the opposite – Brexit as opportunity to get rid of EU environmental red-tape and regulations

Danger of environmental protections being eroded in a ‘race to the bottom’ as the UK seeks to undercut EU production and attract businesses to UK advertised as a ‘low regulation’ zone

Or even if lower standards are not the result, there may be lack of enforcement of comparable environmental standards by UK agencies

One supporter of Brexit, George Eustice MP,
Minister for Farming

“... the directives’ framework is so rigid that it is spirit-crushing. If we had more flexibility, we would focus our scientists’ energies on coming up with **new, interesting** ways to protect the environment...”.

Call me a cynic...but....

"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."

Institute for European Environmental Policy (2016), *The potential policy and environmental consequences for the UK of a departure from the European Union*



Since joining the EU in 1973, membership has prompted the UK to adopt a much more preventative approach to policy, with fixed standards and clearer timetables of improvement, and an explicit set of guiding principles such as precaution, prevention and sustainability.

Likewise, the UK has also shaped EU thinking and policy in some areas and prevented EU action in a number of others.

Autonomy of UK decision makers

	Future scenario		
	Status Quo	Soft Brexit	Hard Brexit
Enjoy favourable access to the Single Market?	Yes	Yes	No
Contribute to the EU budget?	Yes	Yes, but at a reduced level	No
Subject to EU fisheries and farming policies?	Yes	No	No
Automatically subject to EU environmental rules?	Yes	No, but most would apply	No
Subject to EU legal enforcement processes?	Yes	No, but subject to similar EFTA/EEA enforcement processes	No
Able to shape EU rules?	Yes	No	No
Able to raise UK standards?	Yes, in general	Yes, in general	Depends on terms of trade negotiated
Able to lower UK standards?	Yes, except where EU rules apply	Yes, except where EU rules apply	Depends on terms of trade negotiated
Able to shape international policies?	Remain the same	Probably decline	Probably decline

Climate change

The UK's landmark Climate Change Act (2008) is technically unaffected by Brexit, and the government's decision to approve the fifth carbon budget this year was an explicit confirmation of this

Will UK develop its own emissions trading system ?

Will it link into the EU ETS (as Australia was going to)?

Will energy policy 'direction of travel', government pushing for carbon-based 'energy security' (next issue) push for amendments and reversals of the Climate Change Act?

Like in all other policy dimensions of any post-Brexit scenario – increased importance of policy preferences of the government of the day (perhaps the clearest expression of 'taking back control')

Energy

Brexit has potentially negative implications for a low carbon energy transition

“The UK is a growing energy importer. Brexit need not imperil energy security, but maintaining it would become more expensive”. (Grubb and Tindell, 2016)

Diminished investor confidence in renewables

Removal of relevant EU regulation and targets – reduce renewable subsidies /support even more

Empowering of ‘anti-renewable’ wing of the Conservative Party

UK and proposed EU ‘electricity supergrid’? Or membership of the EU Energy Union?

Uncertainty of UK research collaboration on energy (and other areas) with EU researchers

Indirect impact of Brexit: Social and political licence for even greater Conservative Party support for ‘fracking’? (its preferred energy ‘direction of travel’?), more nuclear power and less renewables?

Nature /biodiversity protection



Under EU nature directives, the UK benefits from a comprehensive set of environmental protections and a suite of protected areas.

The habitats and birds directives, which have been widely recognised as protecting the UK's most precious flora and fauna are not covered by the EEA agreement and will therefore cease to apply.

Much of the 'Brexit' position based around 'rolling back' regulation, including wildlife and environmental regulations, so it seems likely that the current protections will be weakened.

These will go with Brexit and no guarantee they will be replaced.

Agriculture

Most significant for the devolved administrations – and strongest basis for inclusion of NI, Wales and Scotland at the UK Brexit negotiating table.

CAP won't apply – and with it funding to farmers for agri-conservation initiatives but also some of the negative environmental implications of CAP

“Brexit offers us an opportunity to reimagine the much vilified Common Agricultural Policy (CAP) for the good of our farmers and our rural environment”. Kierra Box, Friends of the Earth

If UK farmers outside single market – potential of an environmentally damaging ‘race to the bottom’ as they compete globally

Farmers (mostly pro-Brexit) may (with help of pro-Brexit parties such as the Conservatives and the DUP) seek to ‘de-green’ agricultural policy

Example: The National Farmers’ Union and local Ulster Farmers Union want to reduce EU pesticide regulations, viewed as a barrier to production/profitability.

Waste

Depending on hard or soft Brexit – different legal definitions of ‘waste’?

EU support/regulation around reducing landfill waste -Landfill taxes (regulation driving innovation)

EU leading the way on the transition to a circular economy /zero-waste economy

Unless Britain decides to mirror the EU’s framework, manufacturers of products that don’t comply could sell them in the UK, hindering efforts to move towards a circular economy and saddling British consumers with shoddy goods.

“It is ... vital for us to make the case for the circular economy within the UK and to highlight the advantages of a strong and competitive resource efficient economy. Once the dust settles it will be absolutely critical for investment in our industry that the Government acts quickly to set out the terms of a UK exit and what it means for the waste sector,”

Jacob Haylor, executive director of the Environmental Services Association (ESA).

Transatlantic Trade and Investment Partnership (TTIP)

Dead in its current form...but hasn't gone away

Austrian Economy Minister Reinhold Mitterlehner said that the pact now has, "such negative connotations", that the best hope was to "completely relaunch with a new name after the US elections.

Guy Taylor, trade campaigner with Global Justice Now said "the death of TTIP is a victory for the ordinary people across Europe who stood alongside trade unions, civil Society groups, activists and consumer watchdogs to prevent this massive corporate power grab."

TTIP trade deal could re-launched under a different name, say EU ministers

EU ministers demand complete restart of the controversial trade deal that has sparked mass protests across the continent.

Ben Chapman | Friday 23 September 2016 | 15 comments



Aarhus convention

In respect to the Aarhus Convention, given it is a UN, not an EU treaty it is unlikely the Brexit vote should affect those procedural environmental rights citizens enjoy under that convention.

The UK as a Party to the Convention in its own right is required to comply with the obligations in the Aarhus Convention, whether or not it is a member of the EU

So... this guarantees environmental impact assessment, strategic environmental assessment and access to environmental information and thus one important element of procedural environmental justice and open government

However....

As far as human rights are concerned, and the use of human rights to protect the environment for example, the EU Charter of Fundamental Rights of 2009 will no longer be relevant after Brexit.

This Charter is different to the European Convention on Human Rights (ECHR), which is an international treaty to which the UK is a party, entirely separately from the EU (like Aarhus).

The EU referendum result gives no mandate for repeal of the Human Rights Act 1998, which incorporates the ECHR into UK law. The Convention is a creation of the Council of Europe which is a much wider grouping (of 47 states) than the EU.

However, the Conservative manifesto for the 2015 election included a commitment to repeal the HRA and replace it with a British Bill of Rights. (see 'new and interesting' quote above?)

The uncertain future

Key issue is 'hard' or 'soft' Brexit

This will determine to what extent the UK follows EU policy lead. Other issues include

- ▶ the internal politics of the Conservative party;
- ▶ the exit strategy the government decides;
- ▶ the broad negotiating mandate that UK MPs grant the government;
- ▶ the external politics around Brexit negotiations – environmental NGO, popular campaigns, political-legal challenges etc
- ▶ outcome of the forthcoming UK election;
- ▶ the EU Brexit position (esp. Germany and France).

Hard to be positive about higher or the same environmental standards being applied in 'post-Brexit' UK



In absence of EU agencies and regulations environmental protections and transition from unsustainability dependent upon

- ▶ Political party/parties in power
- ▶ Ability of NGOs, civil society groups holding government to account i.e. fighting to retain the standards and environmental gains of EU membership (analogy with austerity and the welfare state apposite here)
- ▶ Distinct possibility of different environmental standards in different parts of the UK – notably Scotland opting for higher/EU regulations and standards given Scottish government commitment to sustainable development



Craig Bennett, Friends of the Earth

“The referendum may be over but many of the difficult debates are only just beginning. The environment must be at the heart of our negotiations with Europe and how we create a positive future for our country. We cannot let the UK return to the days of ‘the dirty man of Europe’. Protections for our birds and wildlife, our beaches and rivers, must not be sacrificed in the name of cutting away so-called EU ‘red tape’.”

All is uncertain...except the centrality of politics –

from legal challenges to parliamentary debates and negotiations, to watching the internal politics of the Conservative Party, to civil society protesting and lobbying

Brexit as overall negative in terms of the transition from unsustainable to sustainable development