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IEEP UK Divergence Newsletter

Newsletter #4

4 December 2023

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EU on brink of new methane regulations for the energy sector

A draft [Regulation on methane emissions reduction in the energy sector](#) gained political agreement by the European Parliament and Council on 15 November 2023. This means that, barring the formality of final sign off, the new legislation will be in force in 2024 and will open up a legal divergence with the UK's approach to tackling methane emissions.

[Read more on our website.](#)



New EU regulation on Critical Raw Materials one step closer

A European Commission [proposal](#) for a new regulation focused on securing a future supply of Critical Raw Materials (CRM) for the EU took a [step further](#) in November. The proposal will be to tag 34 metals, minerals and natural materials as CRMs (such as

phosphorous, strontium and beryllium) and 17 of these as 'strategic raw materials' (SRMs) e.g., nickel, lithium and cobalt used in car batteries, is an attempt to de-risk global supply chains as the EU implements its green economy transition. (See [here](#) for some excellent [infographics](#)). With negotiations nearing their conclusion, it is now likely that this regulation will enter the Official Journal and thus into law in early 2024.

This will open up an area of legal divergence between the EU and UK.

[Read more on our website.](#)

European Parliament blocks key proposal on the regulation of Pesticides Regulation (SUR)

Departures by the UK from the EU's approach to regulating pesticides and the authorisation of specific products have been amongst some of the most visible aspects of divergence affecting the environment in recent years. One strand of this has been the UK's decision to adopt a new licensing regime whereby all pesticides that had licences due to expire before the end of December 2023 should be the subject of three-year extensions. Certain neonicotinoids that have been phased out in the EU continue to be used in the UK.

Until the last week or so it was expected that EU legislation regarding pesticides would get much tighter in the near future as a result of a European Commission proposal designed to deliver the large-scale changes in the use of pesticides foreshadowed in the Farm to Fork strategy, itself a key element in the Green Deal. Bold but contentious from the outset, the Sustainable Use of Pesticides regulation (SUR), was designed to establish legally binding targets at EU level to reduce by 50% the overall use and the (estimated) risk of chemical pesticides as well as the use of the more hazardous pesticides by 2030.

Member States were to set their own, legally binding, national reduction targets to ensure that the overall EU targets were met.



In parallel, a substantive increase in the use of Integrated Pest Management and a ban on chemical pesticides in a range of “sensitive areas “were to be introduced.

However, the proposal encountered significant opposition from both farming organisations and the EPP bloc in the European Parliament as well as from a number of national governments at several stages of the negotiations. The original proposals were weakened very significantly in the course of hard-fought negotiations in the European Parliament and Council, leading ultimately to a much more limited proposition sent for a final vote in the European Parliament in late November. Very unusually, this compromise text was rejected by a sizeable majority in the Parliament, partly because many Greens and socialist bloc members voted against what they considered to be an eviscerated proposal. Now it is unclear whether the whole proposal will be abandoned or whether a revised version of some kind will be presented in future, almost certainly after the European elections in May.



Glyphosates renewed by EU Commission for another 10 years

In mid-November, a European Commission proposal to renew glyphosate's authorisation for use eventually passed but not before some drama. A blocking majority of 15 or more Member states (representing 65% of the EU population) - a 'Qualified Majority' in EU parlance, could not be mustered and so the European Commission was essentially asked to make a decision - and it opted to renew the pesticide for a further 10 years, until 2033.

This had the potential to open a, EU-UK divergence because the UK continues to approve for use glyphosate until December 2025. The decision by the European Commission to renew for 10 years has ensured that a divergence in approach has not occurred.

In Focus...

EU Green Taxonomy: What does it mean for the UK?

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What is the EU Green Taxonomy?

The [EU Green Taxonomy Regulation 2020](#) is an important component of the wider [EU Sustainable Finance Package](#). It is intended to provide an authoritative categorisation of which economic activities can be deemed officially sustainable and also a system of reporting by larger companies against [six environmental and climate objectives](#). After a lot of preparatory work, it is now coming into effect.

Earlier this month, two new Delegated Acts covering a set of economic activities related to [climate](#) and [the environment](#) were published in the Official Journal and will come into force on 1 January 2024. This marks a major milestone as it puts flesh on the EU wide classification system, intended to signpost investments towards [‘environmentally sustainable economic activities’](#) that should help the EU reach its 2050 net zero goal. However, some parts of the categorisation have proved highly controversial, such as the inclusion of [natural gas and nuclear energy](#) as “green” economic activities, much to the dismay of environmental groups.

The ‘Technical Screening Criteria’ (TSC) defines how economic activities can qualify as environmentally sustainable. For this, they must fulfil the following test:

- Make a substantial contribution to one of the six environmental and climate objectives.
- Do no significant harm to the other objectives.
- Meet a set of minimum safeguards (i.e., minimum standards for carrying out business).

They also place obligations on some companies and investors to report their Taxonomy-aligned activities. The EU Green Taxonomy complements other reporting duties, such as those found in the [Corporate Sustainability Reporting Directive](#).

What does this mean for the UK? Considerations for a future UK Green Taxonomy

The UK is currently designing its own domestic version of the Green Taxonomy, however, when this will be delivered is still not clear. Government teams are working closely with the expert [Green Technical Advisory Group](#) (GTAG), who suggested in 2021 that the UK

Taxonomy should, at first, focus specifically on clearly defining 'green' economic activities. This could see a UK Taxonomy in-step with the EU's.



The '[Green Finance Strategy](#)', published in March 2023, proposes commitments to develop a dedicated system in line with the British economy's requirements and considerations of business needs in line with [Net Zero](#) objectives.

The current lack of a taxonomy in the UK marks a clear legal divergence from the EU. On top of that, the [Financial Services and Markets Act 2023](#), enacted in June 2023, has repealed and revoked a large swathe of EU law relating to financial services, including a [Taxonomy Regulation](#) adopted by the UK while it was still a member of the EU. This has undoubtedly added a degree of uncertainty over what a UK taxonomy could look like in the future, and when it may be introduced.

What are the next steps for the UK?

The EU has now taken an important first step in providing clarity and certainty for investors about how to fund its EU Green Deal objectives, which, in turn, could risk the UK's plans to raise adequate sustainable private investment for its own green transition projects. However, it is unclear how wide and deep the influence of the EU Taxonomy is beyond its own borders - only time will tell.

The sensitive nature of the EU's Green Taxonomy made it vulnerable to external pressures from a wide array of interest groups and lobbies during the legislative process, resulting in extended negotiations and controversial additions to the list of defined 'green'

economic activities, as mentioned above. The UK can learn key lessons from that experience.

A public consultation was initially scheduled for Autumn 2023 but is now expected sometime in 2024. Ideally the UK Government would ensure that green voices remain at the core of its plans to develop a more comprehensive and ambitious Green Taxonomy that goes beyond the EU's from an environmental perspective.

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This newsletter is part of IEEP UK's 'Divergence Project' dedicated to tracking and reporting shifts in environmental policy happening in the UK and EU, assessing the degree of alignment or divergence between them, and analysing the potential impacts for the environment and climate as a result.

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