

Discussion paper

# A FRESH DIRECTION

Next steps for the UK towards a  
new environmental vision for Europe



May 2024

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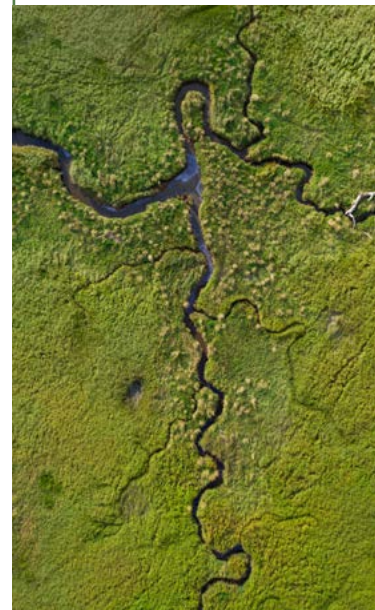
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# EXECUTIVE SUMMARY



- ∞ With elections due in the UK and the EU within the next year, this is the moment for both bodies to move forward from current positions and build up a more cooperative and considered strategy with regard to the environment and climate, well ahead of the scheduled review of the Trade & Cooperation Agreement in 2026.
- ∞ Without more commitment to cooperation, there will be a lost opportunity to maximise combined environmental impact and coherence of approach at the international level and a risk of lower effectiveness and higher costs at the domestic level. The UK can pursue a more cooperative approach without abandoning its own priorities.
- ∞ Both communication channels and trust have suffered since Brexit, affecting both officials and elected representatives. Given the geopolitical background and internal preoccupations in the EU, the UK needs to be ready to shoulder what might seem more than its share of the effort required to rekindle a new relationship, with both environmental and economic benefits. This of course is part of the challenge.
- ∞ An early step would be for a new government to commission a review of what a more ambitious approach to environmental cooperation might look like. Amongst other things, the need to respond to the challenge of the US Inflation Reduction Act (IRA) and explore joint initiatives to increase environmental investment on this side of the Atlantic should be considered.
- ∞ The scope for initiatives across a range of issues and themes is wide but the various strands need to be held together by more of a common understanding, an investment in trust and, where needed, stronger institutional links. Amongst the avenues to be taken forward (particularly on the UK side), are:
  1. The UK should maintain its autonomy but adopt a default position that it will generally align with EU environmental regulation, particularly where there are cross border and trade considerations, unless there are strong reasons not to.

2. To set out new principles for alignment of environmental product standards with those in the EU, without sacrificing regulatory autonomy.
3. Formally link the UK-EU Emissions Trading Schemes & Carbon Border Adjustment Mechanisms, underlining joint climate ambition and determination, increasing regulatory certainty for business working across Europe and removing the risk of additional costs to British exporters.
4. Build on the existing UK critical minerals strategy but introduce robust targets on sourcing and reuse of critical raw materials, complementing those introduced by the EU and put in place steps to work together with the EU to ensure Europe's supply of Critical Raw Materials.
5. Following on from the decision to rejoin Horizon Europe and the Copernicus science and research programme, bridge a widening gap between UK/EU technical and scientific experts on environmental data and information by taking steps towards full membership of the European Environment Agency and Eionet. Linked to this, align with EU controls on hazardous chemicals and seek a close working relationship with the European Chemicals Agency.
6. The UK should increase the priority given to cooperation on international environmental issues, including joint positions and sharing longer term perspectives and plans.
7. The UK and EU should develop a new and efficient forum for exchange on the environment, with clear added value for officials on both sides and capacity to address operational issues and flag future developments.





## INTRODUCTION & OVERVIEW



**I**f the environment has not figured prominently in the uneasy relationship between the EU and the UK since the Brexit negotiations were completed, this is perhaps not a serious source of regret. After all, the environment is a topic where both sides largely agree, especially on the need to progress the global climate agenda. There was little hesitation about working together in the climate COPs, in Glasgow and beyond. Whilst the EU clearly has concerns about the possible consequences of recent legislation changing the status of Retained EU Law in the UK, which opens the way for significant changes in environmental legislation if the Government so chooses, concrete proposals have yet to trigger any significant response, at least until the recent 'requested consultation' by the EU with respect to the UK's permanent closure of the North Sea sandeel fishery on environmental grounds. In the field of research, a critical element in addressing the environmental challenge, cooperation between the two sides should be much enriched by the UK's re-entry into the €95 billion Horizon Europe programme and Copernicus, the earth observation programme.

Without too much parody, the post Brexit status quo on domestic environmental policy could be summed up as a period of experimentation with new freedoms in the UK, especially in England

where regulatory autonomy has had particular political appeal. This has been matched by a wariness in the EU about potential UK regression from current environmental standards and possible breaches of the Trade and Cooperation Agreement (TCA), especially in relation to the Level Playing Field. What is absent, in public at least, is a sense of close neighbours actively working together to progress a largely shared agenda and dozens of interconnected issues in a challenging global environment. Yet this is precisely what is needed.

The emergence of the US as a decisive player, deploying enormous sums of public money to draw in environmental investment through the Inflation Reduction Act, is a direct challenge to both the EU and UK.<sup>1</sup> Yet neither party seems inclined to propose a coordinated response, despite the web of shared interests and cross-channel supply chains. Is active cooperation not necessary to secure the best approaches to managing common spaces and cross-border issues? As new policies emerge, surely there is greater scope and need to learn from one another? Is it wise to test the patience of the international community by the adoption of different policy mechanisms by the EU and UK to pursue broadly similar aims, such as the control of carbon leakage and the introduction of tougher due diligence requirements to help tackle deforestation? From these perspectives it looks as if an opportunity is being missed.

With elections due in the UK and the EU within the next year, this is the moment to change course towards a more cooperative and considered strategy and to rapidly review what a more ambitious approach to environmental cooperation might look like.

The scope for initiatives across a range of issues and themes is wide but the various strands need to be held together by more of a common understanding, an investment in trust and, where needed, stronger institutional links. There is a wide front to cover and so this paper offers only a selection of issues, recognising that the agenda will change and become more complex, especially as the UK diverges from EU environmental law and its four constituent nations pursue their own distinctive strategies, while the EU builds on its own Green Deal foundations.

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<sup>1</sup> *The long shadow of the REUL Act. March 2024. IEEP UK*  
<https://ieep.uk/news/blog-the-long-shadow-of-the-reul-act/>

## Fostering stronger EU/UK relations on the environment – a thematic perspective

This discussion paper is intended to inform the evolving discussion in the UK about the environmental relationship with the European Union and its institutions. In offering initial suggestions about how one might go about fostering stronger, more constructive and mutually reinforcing relations on the environment, we have not attempted to be comprehensive but have looked at seven areas which offer some of the strongest cases for closer cooperation. In such an exercise it is tempting to focus mainly on initiatives that could be taken by the UK, within a more explicit and sustained spirit of cooperation. These are clearly critical. In many cases however, it is less obvious why the EU, with an overflowing agenda and pressing decisions about geopolitics and potential enlargement to the East, would want to invest more in the relationship with the UK. The UK probably needs to be ready to shoulder what might seem more than its share of the effort required to rekindle a new relationship with both environmental and economic benefits. This of course is part of the challenge.







# 1 BETTER MANAGEMENT OF SHARED RESOURCES



**I**t is a truism that the environment does not respect national, political boundaries. Managing our shared resources well – whether air, land<sup>2</sup> or sea, is crucial for both the EU and the UK.

Transboundary air pollution for example will remain regardless of whether the UK is in the EU or not. A number of pollutants such as nitrogen oxides, sulphur dioxide, hydrogen chloride, non-methane volatile organic compounds and ammonia can travel thousands of miles to cause eutrophication, acidification and ground level ozone. They can move from one country to another and can react in the atmosphere to create secondary pollutants. Particulate matter, a critical health concern in a number of cities and other locations, is a significant transboundary pollutant too.

Both the UK and EU are signatories to international conventions such as the Convention on Long-range Transboundary Air Pollution (CLRTAP) and currently share the same root legislation on air quality,<sup>3</sup>

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<sup>2</sup> Not forgetting that Northern Ireland borders an EU Member State in the Republic of Ireland and river basin district planning for example requires careful and coordinated international cooperation.

heightened cooperation and coordination will be required in future to ensure that standards remain high and new (or known challenges) are managed and dealt with appropriately. The EU is currently nearing a conclusion in revising its framework air quality legislation. Though less protective than hoped for, it does nevertheless point towards a progressively forward move to tighten laws that account for over 300,000 premature deaths each year in the EU, and the UK should strongly consider following suit.

Fisheries will remain a live, and potentially, a flashpoint, issue for any new Government after the next election. Upcoming fishery quota negotiations between the EU and UK set for 2026 will require a high level of respect, understanding and realism on both sides to be successful. As part of this both sides will need to accept that reduced fishing opportunities are likely to be an essential component of greater sustainability, including but not only within Marine Protected Areas.

A precursor of this is the recent decision permanently to ban sandeel fishing in English and Scottish waters of the North Sea to all vessels whether from the UK, EU or elsewhere. This has implications for fishing and processing industries in the EU, particularly those in Denmark which have a 96% share in the EU sandeel fisheries quota, much of which is in UK waters and who earn over £3 million annually in revenues.<sup>4</sup> It is being challenged by the European Commission under the TCA dispute procedure.

Intensified work to share more scientific information and forward thinking in advance could help to reduce flashpoints in the coming decade. At the same time, the partners around the North Sea should also be looking to tackle other marine pressures such as restoring depleted seabird populations, preventing by-catch and working together to ensure that designated Marine Protected Areas are sited in the best places, are complementary and are managed properly, with appropriate enforcement, especially where they are subject to fishing from multiple fleets.



3 *Though recent agreement by the European Parliament and Council on revision to the EU air quality directives will lead to legal divergence. At the time of writing this revision has not entered the Official Journal.*

4 *The Sandeel (Prohibition Of Fishing) (Scotland) Order 2024: business and regulatory impact assessment – final, <https://www.gov.scot/publications/sandeel-prohibition-fishing-scotland-order-2024-final-business-regulatory-impact-assessment/#:~:text=The%20net%20present%20cost%20is,and%20%2%A34.0%20million%20annually>*



## 2 CLOSER COOPERATION OVER ENERGY SUPPLY & CONNECTIVITY



**T**he North Sea is also significant with regards to energy production (particularly offshore wind), energy grid connection (and grid security) as well as the use of subsea cables in managing the imports and exports of energy between countries. However, wise management of this resource requires a high degree of cooperation and coordination with regard to spatial planning, especially in the deployment of ever larger and higher numbers of wind turbines.

The UK is now outside some key processes where only EU Member States participate but engagement has increased and there are foundations to build on. After a brief interruption, the UK and EU signed a Memorandum of Understanding<sup>5</sup> so that the UK could re-enter the North Seas Energy Cooperation (NSEC) group in December 2022, although not as a full member. The signing of the energy focused Ostend Declaration in April 2023<sup>6</sup> is also a sign of closer relations on renewable

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5 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1125685/UK\\_NSEC\\_mou\\_on\\_offshore\\_renewable\\_energy\\_cooperation\\_in\\_north\\_seas\\_region.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1125685/UK_NSEC_mou_on_offshore_renewable_energy_cooperation_in_north_seas_region.pdf)

6 <https://www.gov.uk/government/publications/developing-the-north-seas-as-a-green-power-plant-of-europe-north-sea-summit-declarations>

energy development, deployment and interconnection. The current energy agreement provisions in the TCA are due to expire on 30 June 2026. An incoming Government should look to have these provisions renewed/extended as soon as possible and not wait for the deadline.

Critically though, these mechanisms tend to focus on facilitating development. How these interact with, and are made as sympathetic as possible to, nature and the marine environment can often be overlooked. Holistic and strategic marine planning which is sensitive to wildlife and habitats from the outset, that assesses and mitigates against the potential impacts of large energy deployments, is going to be even more important as these developments surge ahead. The Greater North Sea Basin Initiative<sup>7</sup> is an important step forward in building dialogue and providing a forum for one of the UK's most important regional seas, that bring together the full range of key partners. Ideally, this should encourage input from the eNGO sector, to debate, discuss and help shape the way forward and bring the right balance to this highly sensitive marine environment.

Alongside closer cooperation over energy supply and connectivity is the question of the role and operation of climate change mitigation measures, particularly emissions trading schemes (ETS) and carbon border adjustment mechanisms (CBAM). The UK Government has already signalled its intent to stay broadly aligned with the EU with regard to implementation of its emissions trading scheme by, for example, planning to include aviation and maritime emissions on roughly the same timetable as the EU. Similarly, the Government plans to introduce a UK version of the EU CBAM, with the same rationale of attempting to tackle 'carbon leakage' to other parts of the world. The recent recommendations from the multi-stakeholder UK-EU TCA Domestic Advisory Group (DAG) include alignment between the UK and EU ETS, both as a form of climate leadership and a way of avoiding the need for a separate UK CBAM, recognising that this involves compromises. "Alignment between UK and EU CBAM should be considered alongside Emissions Trading Scheme linkage which the TCA envisages. The UK and EU should avoid divergence in scope or the creation of new regulatory friction which may affect mutual trade with

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7 <https://maritime-spatial-planning.ec.europa.eu/news/establishment-greater-north-sea-basin-initiative-gnsbi>. The most recent conclusions of this initiative can be found here: <https://maritime-spatial-planning.ec.europa.eu/media/document/15065>



similar standards and climate ambitions shared by all parties”<sup>8</sup>. Should there be a decision to formally link both measures with the EU, closer cooperation over wider energy supply and connectivity issues will be essential.

On balance, formally linking the UK ETS and CBAM to the EU’s would bring a number of benefits not least to signal to EU partners that the UK is serious about climate leadership (see section 6). On the ETS, the UK would have to forego some ‘freedom’ to design a system in the way it sees fit. It may not wish to make changes at the pace and scale that the EU is opting for, such as including policy areas like transport and buildings, but this is a price worth paying for being involved in a larger overall carbon market with greater liquidity and working together to normalise the concept of ETS and CBAMs where the threat of WTO claims loom. Finally, and perhaps not a key argument, but linking the ETS and CBAM would avoid further potential difficulties over how Northern Ireland is factored into any new arrangements. The introduction of a UK CBAM has arguably only been planned to avoid a future EU carbon tax on UK exports e.g. of electricity.



## Recommendations

- ∞ Formally link the UK-EU Emissions Trading Schemes & Carbon Border Adjustment Mechanisms, underlining joint climate ambition and determination, increasing regulatory certainty for business working across Europe and removing the risk of additional costs to British exporters.
- ∞ Renew/extend the energy chapter provisions of the TCA as soon as possible and not wait until 2026 when the agreement expires.

8 <https://www.gov.uk/government/groups/uk-eu-trade-and-cooperation-agreement-domestic-advisory-group#documents>





### 3 INCREASING REGULATORY CONVERGENCE ON THE ENVIRONMENT



**T**here have been a number of areas in which policy and legal divergence has taken place or is taking place since Brexit: ranging from waste (e.g. batteries, single use plastics and packaging waste), to chemicals and pesticides (e.g. the types and numbers of substances approved for use), to climate (e.g. ETS, CBAM, and the Social Climate Fund) to nature (e.g. the shark fin trade) and genetic technology.<sup>9</sup> There are also a larger number of areas of likely or potential divergence on the near horizon,<sup>10</sup> including rules covering industrial emissions and air quality, critical raw materials, energy efficiency, urban waste waters, groundwater regulation and electronic waste (WEEE). There are, and have been, a myriad of smaller technical changes since Brexit too, although as yet they do not amount to significant divergence whereas those on the longer and growing ‘potential’ list pose significant and consequential levels of divergence, depending on how UK law develops.

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SCRUTINY

9 <https://ieep.uk/publications/divergence-in-uk-eu-environmental-policy-the-state-of-play-february-2024/>

10 *At the time of writing, several initiatives proposed by the European Commission are at the very late stages of their legislative passage. Some have received approval by both the European Council and Council and are awaiting formal adoption.*

The UK's desire for 'regulatory autonomy' is reasonable given that that was a stated aim of Brexit and accepting the role of a policy taker in certain areas is not in itself appealing. Nonetheless there is a need for pragmatism, clear-eyed pursuit of the best environmental outcome and the adoption of efficient approaches to the increasingly demanding business of devising and revising environment and climate policy. Purely national approaches often are not optimal. Indeed, the need to accept global standards in certain areas is widely accepted. Consequently, the case for the development of separate national institutions, systems and regulatory mechanisms needs to be carefully scrutinised and real benefits identified clearly before it is assumed that autonomous approaches are preferable. They can come at the cost of a sensible sharing of resources and cooperation in areas of policy where both the EU and UK largely agree, and it is in the interests of both to have regimes that are closely aligned to reduce costs for businesses or to improve the implementation and enforcement of measures.

The establishment of a parallel framework for regulating chemicals (see box below) is a classic example of where too much importance was attached to having a new autonomous domestic institution and approach and the cost has been high. This can be avoided in other areas, such as around global efforts to tackle commodity driven deforestation or improvements in corporate sustainability reporting. Here, a sharing of ideas and ideally an alignment of systems would be preferable. Given the multiplicity of supply chains that cross the Channel, cooperation around the building of a circular economy, a clear priority for the UK and EU, would be in the interest of both. A current example is *Critical Raw Materials* legislation and policy where a high level of planned alignment looks very likely to be a more efficient way to go about building a circular economy and attempt to de-risk supply chains.

Environmental regulation within the UK will become more diverse as competence in most areas is devolved to the constituent nations which are already exercising their powers in diverse ways. Unpredictable and variable levels of divergence between the UK and the EU on top of this has obvious drawbacks, not least for businesses operating in more than one jurisdiction. This reinforces the case for an overall pattern of alignment between UK and EU regulations on the environment, unless there are clear and substantive reasons for a different approach in the UK, as there will be on some occasions. The UK will continue to have



priorities of its own and should not wait for an unreasonable time to act on an issue where the EU is moving slowly for example.

In several areas, a European dimension to the enforcement of existing legislation will also be key. Tackling international waste crime for instance, will require continued close cooperation between customs, police and environment agencies around Europe, noting that this will be enormously easier where the legislative underpinning of the various regimes involved remains compatible and consistent.

## Recommendations

- ∞ The UK should maintain its autonomy but adopt a default position that it will generally align with EU environmental regulation, particularly where there are cross border and trade considerations, unless there are strong reasons not to.
- ∞ The Westminster Government should establish a new forum with the devolved administrations to work together on issues arising from EU alignment and divergence, while respecting the autonomous powers of the administrations involved.
- ∞ The UK should build on its critical mineral's strategy,<sup>11</sup> by introducing targets on sourcing and reusing critical raw materials to complement those introduced by the EU and ideally some form of effort sharing made to align the approach with the EU's.

<sup>11</sup> *Critical Minerals Refresh*, <https://www.gov.uk/government/publications/uk-critical-mineral-strategy/critical-minerals-refresh-delivering-resilience-in-a-changing-global-environment-published-13-march-2023>





## 4 MORE HARMONISED & HIGHER PRODUCT STANDARDS



**P**roduct standards for goods, particularly mandatory standards, laid down in legislation, are an important tool for reducing the environmental impact of a large range of different materials and manufactured goods and a well-established component of environmental law. For example, they lay down maximum permitted levels of certain chemicals in manufactured products, prohibit some products entirely, set energy efficiency standards, require that conditions for reuse, recycling and return of containers and other products should be met and lay down standards for packaging. They extend into food policy where there are maximum acceptable concentrations of many pesticides in food. As we aim towards a more circular and less polluting economy, an expanding set of mandatory product standards is likely to be one of the key policy levers that needs to be deployed in the UK, EU and elsewhere. The EU recently has agreed an important new Regulation on batteries and revisions to packaging waste legislation for example and is considering tighter requirements covering certain chemicals.

Nearly all such product standards in the UK are based on EU law so there is fairly broad alignment at present but this is liable to change,

creating considerable uncertainty. This can happen because the EU alters its standards but the UK does not follow suit or because the UK (or its constituent nations) introduce alterations. The reasons for this might include anticipated economic, administrative or perhaps environmental advantage or be motivated by a general preference for regulatory autonomy. However, establishing separate UK product standards comes at a cost. Leaving aside the costs of gearing up domestic institutions, such as the Health and Safety Executive,<sup>12</sup> for the task of setting, reviewing and revising standards, there is the cost to businesses of complying with the new standards. Where companies wish to export to the EU or third countries and where EU standards prevail, there is the cost of having to comply with two sets of standards and possibly have two different production lines for different markets, such duplication being the greatest concern for many companies. Furthermore, certain EU standards continue to apply in Northern Ireland, complicating the process further. For all these reasons, initial Government enthusiasm for introducing new, parallel, UK standards has waned in several areas. For example, the requirement to use the new UK equivalent to the established 'CE' mark on a range of electrical and other goods was rescinded in 2023 and bodies like the British Chamber of Commerce would like to see further steps in this direction by the government.<sup>13</sup>

Given the economic reality that EU product standards have a much wider reach than those only applicable nationally, UK governments should accept that establishing parallel standards is only justifiable where the net benefits are substantial and demonstrable, however unpalatable it is to be a 'policy taker' rather than maker. For the environment, there should be a presumption in favour of staying in step with EU standards unless there are strong reasons not to. These might include the need to move faster or innovate, or to address a specifically local issue in the UK, or to avoid exceptionally burdensome requirements with little environmental benefit in the UK. Furthermore, to avoid doubt, the introduction of looser UK environmental standards purely in order to procure an economic advantage should be ruled out explicitly.

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**THERE  
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12 <https://www.nao.org.uk/reports/regulating-after-eu-exit/>

13 <https://www.britishchambers.org.uk/news/2024/01/common-sense-approach-to-product-marking-welcomed/>



Setting this approach out as a new set of general principles for product standards would provide significantly greater predictability and confidence for those planning investments in the UK, not least in relation to chemicals, the circular economy, agri-food and low carbon products. It would also remove the fear of the UK undermining the level playing field within Europe, a prospect that can be used by those Member States opposing higher EU standards. In this sense the UK can help to establish a more secure pathway to raising environmental standards throughout Europe.

In environmental terms, the scope for separate UK standards should not be completely dismissed, however. They could be beneficial in some cases, for example, where addressing emerging or purely domestic issues, innovating or applying scientific principles more rigorously or moving ahead of the EU in addressing a pressing issue such as prohibiting the inclusion of peat in horticultural products.

Decisions on the future of national product standards are very much a matter for the UK. However, building an understanding between the UK and the EU about the future development of product standards in the UK in the frame of both new principles on the UK side and mutual interest in meeting ambitious environmental objectives and sustainable economies would be a step forward.

A stronger EU/UK understanding in this area, could be established by various channels and processes, not all of which necessarily need to be very formalised, at least in the shorter term. However, intentions need to be translated into concrete cooperative mechanisms, agreed either in advance of, or as part of, the TCA negotiations. One approach would be an expansion of the remit of the existing TCA Trade Specialised Committee on Technical Barriers to Trade to create a more explicitly cooperative and forward looking forum to develop the use of both product standards and related regulatory requirements (such as local content requirements and mutual recognition of certification bodies). As a parallel example, the Tony Blair Institute has proposed a new EU-UK Trade and Regulatory Cooperation Council to facilitate cooperation when the UK and EU's regulatory approaches may diverge, for example on emerging technologies.<sup>14</sup>



14 Tony Blair Institute, *Moving Forward: The Path to a Better Post-Brexit Relationship Between the UK and the EU*, pp.5. <https://www.institute.global/insights/geopolitics-and-security/moving-forward-path-to-better-post-brexit-relationship-between-uk-eu>

This cooperation might be achieved across a wider policy spectrum, but if not, the environment could be a pilot topic where wider benefits could be explored in a sphere where long term objectives are broadly the same in the UK and EU.

This would be preferable economically and environmentally to an unpredictable ad hoc approach in the UK and could contribute to enhanced investment in the green economy in both jurisdictions. It could be part of a larger pan-European response to the US Inflation Reduction Act, which is pulling green investment towards the US.

A new approach of this kind would not mean abandoning regulatory autonomy in the UK but using it with greater discretion and in a more strategic context in relation to product standards and, indeed, other environmental legislation.

Within this framing, the UK's continued interest in the setting of product standards in the EU also arises. While the UK has no formal role in setting EU standards there is a mutual interest in making the best use of the UK's experience, scientific strengths and significant evidence base in the drafting of EU product standards in a range of areas. One way of realising this would be to increase UK participation in relevant EU processes and bodies with important technical roles, such as the Joint Research Centre.

## Recommendations

- ∞ The UK to set out new principles for alignment of environmental product standards with those in the EU, without sacrificing regulatory autonomy, as proposed above.
- ∞ Expand the remit of the existing TCA Trade Specialised Committee on Technical Barriers to Trade to create a more explicitly cooperative and forward looking forum to develop the use of product standards for mutual advantage.
- ∞ Introduce mechanisms to facilitate exchange, including scientific and technical meetings and more formal working groups on critical topics.
- ∞ Ensure that the environment is included in any broader new mechanisms to address EU/UK trade issues.



## 5 RECONSIDER UK PARTICIPATION IN TECHNICAL & SPECIALIST EUROPEAN AGENCIES



**D**eparture from the European Union meant that the UK Government was no longer a member of a number of technical and scientific bodies. The UK could have applied for membership in some cases at least, but decided not to and no discernible reasons have been given by Government as to why, and what the benefits or cost savings of not being members would bring. Discontinuation of involvement with specialist agencies such as the European Environment Agency (EEA) and the European Chemicals Agency (ECHA) arose from an approach to Brexit that stressed UK regulatory autonomy over other aims.

Replacing the functions of certain Europe-wide agencies with indigenous alternatives has come at significant cost to the UK taxpayer<sup>15</sup> and has produced questionable results. It has also diminished the scope for cooperation on the environment at a more technical level.

Whilst the UK has considerable scientific and technical expertise on the environment and sizeable delivery bodies, such as the Environment

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15 *National Audit Office, Regulating after Brexit, May 2022, <https://www.nao.org.uk/reports/regulating-after-eu-exit/>*

Agency in England, it does not have the capacity to match the scale of technical bodies such as the ECHA and now has much less access to Europe wide data. The EEA and ECHA provide an economy of scale that reduces the cost of regulation and improves environmental outcomes.

The recent decision to rejoin the Horizon Europe and Copernicus science and technology programmes<sup>16</sup> is an acknowledgement that cooperation and exchange between scientific and technical experts is a win-win for the UK and EU. This should make the logical decision to seek closer cooperation with the EEA and Eionet as well as ECHA easier.

Cooperation could range from a case by case, time limited exchange of technical and scientific expertise on projects of mutual interest up to and including full UK membership or some form of 'associate' status in these pan-European organisations.

## a. The European Environment Agency

The collection of data and information that underpins environmental policy and regulation is vital. Exit from the EEA has resulted in the loss of access to this cooperation at practitioner level (including the substantive, more technical Eionet network) and has weakened and fragmented the information base on both sides of the channel. The wide membership of the EEA and Eionet, covering 32 European countries (not just the EU members), helps to maintain and improve a common knowledge base for effective policy making on the environment based on the timely collection of relevant data in a regular, consistent and trustworthy way. The EEA has, since its formation in 1994, been working towards harmonising and standardising data about the environment and climate, including all thematic areas of interest to the UK, not least transboundary issues such as air, marine and waste pollution. Exiting the EEA has harmed this process.

## b. European Chemicals Agency

ECHA is an agency designed to implement EU chemicals legislation and through this support the functioning of the internal market. It

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16 [https://www.eeas.europa.eu/delegations/united-kingdom/uk-joins-horizon-europe-and-copernicus-programmes\\_en?s=3225#:~:text=The%20United%20Kingdom%20is%20now,world%2Dleading%20Earth%20observation%20programme](https://www.eeas.europa.eu/delegations/united-kingdom/uk-joins-horizon-europe-and-copernicus-programmes_en?s=3225#:~:text=The%20United%20Kingdom%20is%20now,world%2Dleading%20Earth%20observation%20programme)

develops independent scientific and technical opinions, takes decisions to ensure that companies fulfil their obligations with regard to chemicals law such as REACH (see box) and hosts the world's largest database on chemicals. Like the EEA, it also incorporates and works with technical agencies in non-EU member states, such as Iceland, Liechtenstein, Montenegro, Serbia, Switzerland and Turkey. Switzerland for example, has largely mirrored the EU in its approach to regulating dangerous chemicals and has done so on the basis of removing technical barriers to trade and ensuring a broadly equivalent level of protection to human health and the environment as the EU.<sup>17</sup>

### c. European Integrated Pollution Prevention and Control Bureau

The UK exited another established EU environmental body, the *European Integrated Pollution Prevention and Control Bureau (EIPPCB)*. As the Bureau is a part of the European Commission, and only services member States the UK's departure from the EU meant the UK did not have a choice over exiting the EIPPCB. However this has led to a loss of access to extensive environmental data and information used when determining Best Available Technology (BAT) and the BAT reference documents (BREFs), which are key foundations for regulatory activities relating to industrial pollution.<sup>18</sup> Furthermore, by setting up a duplicate body and governance structure to the EIPPCB, the UK obliged some industrial companies selling in the UK and the EU markets now to have to follow two processes, leading to unnecessary replication of processes and additional administrative costs. It is highly unlikely that membership of this body would be possible but seeking closer cooperation with the EIPPCB would be beneficial for UK regulatory agencies as well as UK industry and UK data and experience would contribute to the work of the bureau and its impact.

17 ChemTrust, *The Swiss Chemicals System*, November 2023, <https://chemtrust.org/wp-content/uploads/Swiss-chemicals-regulatory-system-report-FINAL-.pdf>

18 Some EIPPCB information is publicly available and therefore available for UK stakeholders to use, however the technical working groups that determine Best Available Technology (BAT) and BAT reference documents (BREFs), are closed groups, often discussing confidential and commercially sensitive information and so this would not normally be available to the UK. <https://ieep.uk/incubator/wp-content/uploads/2024/05/EEA-briefing.pdf>



## Recommendations

- ∞ The UK government should seek close, technical and scientific, cooperation with the EEA and Eionet with the ultimate, longer term aim to return to full membership.<sup>19</sup>
- ∞ The UK should align with EU controls on hazardous chemicals and seek a close working relationship with ECHA.

### BOX 1 UK & EU REACH

UK REACH and EU REACH<sup>20</sup> are broadly aligned in their overall aims in managing the risks from dangerous chemicals. The Health and Safety Executive (supported by other bodies e.g. the Environment Agency, local authorities, the Office for Product Safety Standards) has replaced ECHA in providing the technical capacity and data required to regulate chemicals in the UK. However, the long-established database, information and experience that EU REACH has built up is no longer accessible by UK authorities. The data available to UK REACH is much less complete since, although some of ECHA's data is publicly available, some is restricted due to the commercial sensitivities involved and therefore is not available to UK regulatory bodies. Manufacturers wishing to sell a product in both the UK and EU markets now must register in both legal jurisdictions, increasing the costs involved. The more limited regulatory capacity and resources available to UK REACH help explain why fewer protective restrictions on hazardous chemicals have been put in place in the UK since leaving the EU. In the EU, nine restrictions on the use of hazardous chemicals have been adopted since the UK left the EU and 25 more are in the pipeline, whereas in the same period in the UK just three restrictions have been taken forward.<sup>21</sup> There is a risk that the UK will not keep pace with the EU's process of assessment and regulation of chemicals which could lead to the UK becoming a dumping ground for harmful chemicals that cannot be sold in the EU.

19 *IEEP UK Briefing, April 2024, The case for closer cooperation with European partners on environmental data and information; the UK, European Environment Agency & Eionet.*

20 *EU REACH legislation is a broad framework for regulating chemicals by suitable policy measures in the EU and depends on the ECHA for its operation. The UK, since it left the EU, is no longer part of EU REACH and has established its own UK chemicals monitoring system - UK REACH.*

21 <https://chemtrust.org/wp-content/uploads/UKEU-divergence-table-chemical-controls-10.pdf>



## 6 WORK TOGETHER MORE ON INTERNATIONAL COOPERATION & LEADERSHIP



**A**s noted earlier, cooperation in international environmental fora did not evaporate with Brexit and it is an area where the UK and EU have continued to work together on common objectives for the environment, including global progress towards a Net Zero target. Both understand the importance of leadership from Europe, so there is much to build on. The COP21 meeting in Glasgow was a notable example with both the EU and UK backing a global methane pledge, a pledge to end deforestation by 2030 and supporting South Africa to reduce and end its use of coal for energy production. Equally, there was cooperation and visible leadership at the 2022 COP15 Kunming-Montreal Global Biodiversity Framework event.

Both parties stand to gain from the diplomatic dividend that should result from a systematic approach to coordinating where possible on a broad range of climate and environment fronts, including a shared interest in strengthening the environmental dimension in WTO rules and establishing effective due diligence regimes and increased environmental accountability in global supply chains. The UK has a sizeable and respected resource in its diplomatic service and two coordinated voices rather than one are valuable in many global negotiations impinging on the environment.

There will certainly continue to be cases where approaches are different, for example currently in relation to due diligence regimes for trade in forest risk commodities, where the EU has moved faster with what most experts consider an environmentally more ambitious approach. However, there should be a presumption against creating divergence, as has occurred in this case, with the UK setting up a different model. This applies especially where new or modified regimes with an impact on third countries and traders are being put in place. Different and potentially competing regimes risk lower effectiveness, create additional burdens for those affected and reduce overall coherence. Where one party has moved first with a coherent approach the other should avoid establishing a different regime with similar objectives unless there are very strong grounds for this.

Enhanced cooperation means regular contact inside and outside formal processes. For example, there will be opportunities to share experience and learn from both success and mistakes in pioneering approaches. Maximum prior warning from the EU side and early engagement with the UK is nearly always going to be welcome. A routine willingness to hear the UK perspective at an early stage would cost little and might increase the chances of the UK giving serious early consideration to adopting compatible or supportive conditions.

The same applies in reverse if the UK is the first mover. Differences in foreign policy priorities and economic interests, real or perceived, cannot be taken out of the equation and the UK will not be part of the EU process for developing positions on key issues and agreements. Nonetheless, the value added of joint positions and similar if not identical policy mechanisms needs to be given due weight. A case in point being opportunities to support initiatives that are beneficial for both, including in relation to the US and China. For example, it has been suggested that the UK could offer to join and support the recently announced Commission anti-dumping investigation into Chinese electric vehicles.

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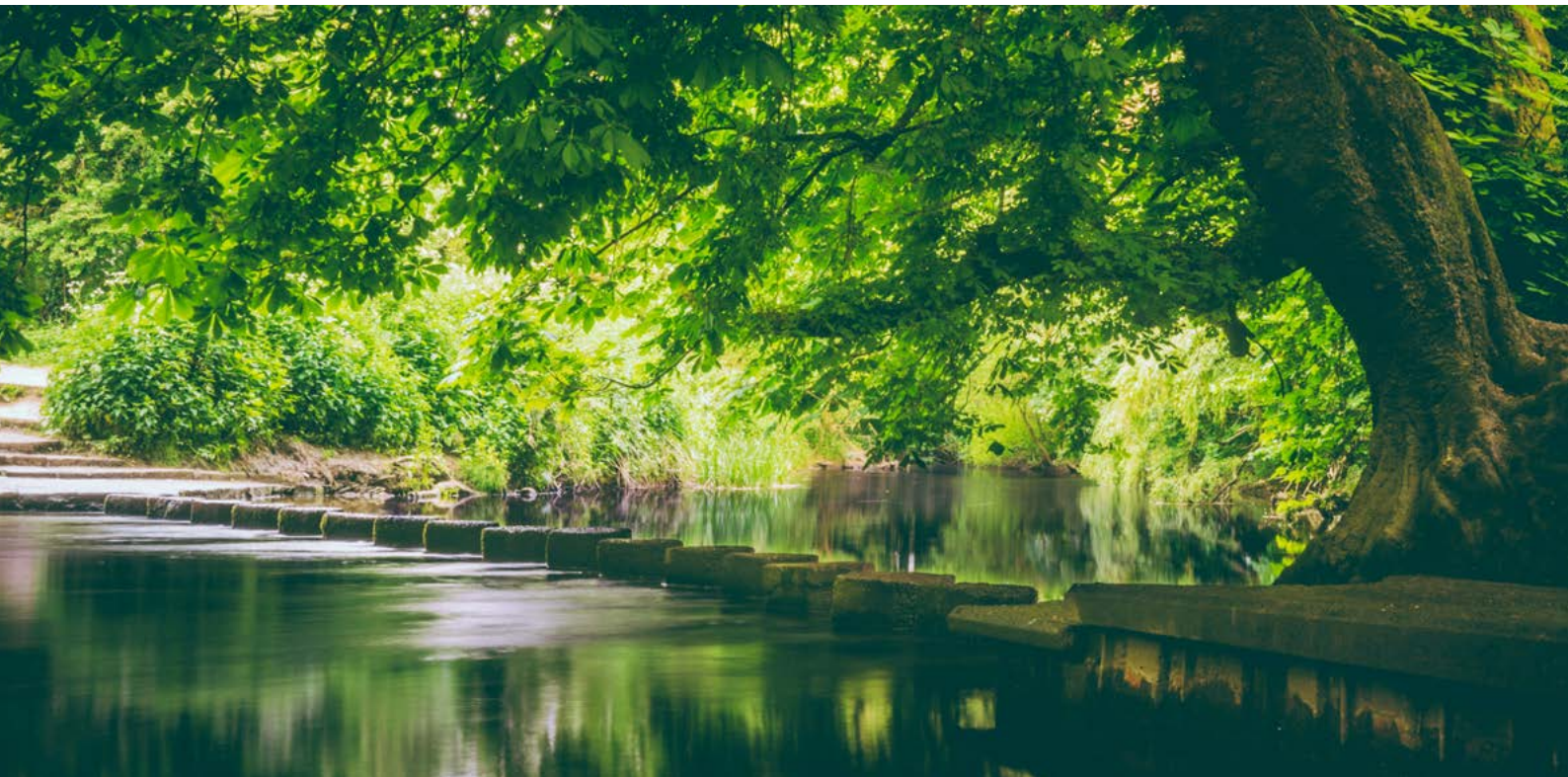
## Recommendations

- ∞ Increase the priority given to cooperation on international environmental issues including joint positions and sharing longer term perspectives and plans.
- ∞ The UK should seek to align with the EU approach to due diligence on forest risk commodities to avoid competing approaches and maximise effectiveness. A review mechanism in the UK legislation may facilitate this.





## 7 REBUILD A CULTURE OF TRUST WITH THE EU THROUGH ENGAGEMENT & EXCHANGE



**T**he gradual thawing of relations seen over recent months, as highlighted by the Windsor Framework agreement and more recently over the Horizon programme, are signs of improvement in the post Brexit UK/EU relationship but, clearly, there is still a long way to go and further efforts need to be made. Political leadership is required to enable broader and deeper relations to be built, re-built and re-awakened.

In a formal sense, the TCA with its built-in mechanisms for exchange such as its Partnership Council, specialised committees, and Domestic Advisory Groups (DAG) have a positive if rather ponderous role. After a slow start, some Ministerial involvement and the development of joint statements by the UK & EU DAG members for example have helped to galvanise a cooperative atmosphere. However, the lack of a holistic environment and climate specialised committee, the limited role of the Civil Society Forum (CSF) and less than frequent pace of meetings, has left much to be desired. Indeed, members are calling for more informal contact to supplement the often rather staid, formal channels of communication.

More informally therefore, an *active* fostering of a refreshed approach needs to take place. In addition to interactions at a political level, engagement at a civil servant level and at a practitioner level e.g. between

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technical experts, is where the culture of cooperation and greater trust is built and can thrive. This means taking off any 'brakes' on official to official engagement between bodies such as the European Commission (e.g. DG Environment) and UK Government departments (e.g. Defra) that has existed since Brexit due to political level wranglings. Regular information exchange between staff on both a thematic and cross-thematic basis is required to improve dialogue and compatibility in policy development (for example utilising the same metrics where possible in legislation with the same objectives) and increasing the prospects for complementarity. This would enrich the flow of policy development both ways – for example, the EU would benefit from the UK's scientific and technical expertise and the work of some of the largest specialist environmental authorities in Europe (e.g. Environment Agency England) whilst also helping UK policy makers when designing new approaches where the Commission has invested in extensive preparatory work, such as with CBAM or due diligence rules on deforestation.

This active fostering of a relationship is not confined to governments and their technical agencies but also needs to include stakeholders such as NGOs. The development of the DAGs and CSF under the TCA should be broadened out to more fully encapsulate the environment and climate thematic areas. The UK will need such forums if it is to inform its own citizens about what is happening in the EU and indeed elsewhere in the world and how it affects them as well its own plans for going forward.



## Recommendations

- ∞ Develop a new and efficient forum for exchange on the environment, with clear added value for officials on both sides and capacity to address operational issues and flag future developments. The lack of an established 'early warning' system seems to be a contributing factor to some areas of tension. This could be formalised at the TCA review.
- ∞ Remove any 'brakes' on engagement between officials such as the European Commission (e.g. DG Environment) and UK Government departments (e.g. Defra).
- ∞ Build up the capacity of UK civil society and industry representatives to engage in exchange over environmental policy and practice, providing financial support where required.



## WHAT IS IN IT FOR THE EU?



**F**rom illegal migration in southern Europe, to a war on its eastern flank; to high living costs at home and challenges abroad from the US and China (associated with, for example, significant public subsidies in renewables<sup>22</sup> and the 'Belt and Road' Initiative), there is much on both the EU's domestic and international agendas. Relations with the UK are not amongst the top priorities, and this is unlikely to change. Nonetheless, the UK is, and will continue to be, a large economic and trade partner for the EU sitting on its doorstep and given tensions to the East greater alignment with the UK on several fronts would be helpful in the coming years. The UK is a significant actor in climate and environment policy and will continue to be a presence in environmental law making, diplomacy, investment and finance. To ignore it would be unwise.

However, as the UK starts to look for a closer relationship with the EU, it must also be asking itself, 'what's in it for the EU'? Why should the EU be looking to improve the relationship beyond what it is laid down in the most ambitious and extensive trade agreement signed by

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22 <https://www.whitehouse.gov/cleanenergy/inflation-reduction-act-guidebook/>

a British Government (the TCA). Repeated signs from EU officials are that the TCA review in 2026 will not be about re-opening the agreement but rather examining the implementation of the current agreement. A 'trust deficit' has built up over time since Brexit.

The UK will have to do some, and perhaps most, of the running in order to convince the EU and its Member States that it is serious about improving the relationship and that it is in the interest of both sides (economically, diplomatically and politically) to deepen and strengthen the relationship on the environment and climate going forward. The onus will likely be on the UK to be proactive and positive and to demonstrate ambition.

Steps such as rejoining European-wide bodies like the European Environment Agency would be important in their own right but they are also a symbol of a wider context where the UK is a willing and able partner. Underwriting and subsequently rejoining long term funding programmes like Horizon is a stepping stone along this path too but more is needed.

## IN CONCLUSION



**N**ow that the UK/EU relationship has entered a calmer stage, a more proactive strategy is needed for cooperation on the environment, with the UK taking the lead in the initial stages to create momentum and build a foundation of trust. Mutual long-term interests are broad but include the resolution of innumerable specific questions, ranging over trade, financial services, fisheries, citizen rights, energy policy and much else. The environment merits a place within a strategic agenda, the more so given the urgency and seriousness of looming decarbonisation and biodiversity targets for 2030 and beyond. The case for more systematic and routine cooperation where this can be achieved should be kept under continuous review, covering both international and intra-European policy and action.

On the UK side, the debate on removing certain barriers created by Brexit and revisiting aspects of current arrangements to suit national interests better is gathering momentum. There is space for fresh thinking. However, this agenda needs to be broadened to embrace wider themes for the coming decade, amongst which the environment is a crucial one. Different areas where the environment could become more prominent in the relationship have been highlighted here and each deserves attention in its own right. However, substantial progress in most areas requires a clearer sense of overall direction and a renewed trust to underpin an operational partnership.

For this reason, a new UK government, whatever its political composition, should set up an internal taskforce involving Defra, DBT, FCDO, Cabinet Office, devolved government representatives and other relevant departments to develop a cooperative strategy for the environment ahead of the TCA negotiations. This then can be tested with EU counterparts and then progressed through negotiations, alongside accelerated efforts to address a range of issues referenced in this paper. Early expressions of goodwill might include both a joint expression of strategic intent on the environment and UK overtures to rejoin the EEA. Here, as in other areas of policy the UK will often need to be the first mover.



# Glossary

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<b>CBAM</b>	Carbon Border Adjustment Mechanisms
<b>CSF</b>	Civil Society Forum
<b>COPs</b>	Conference of the Parties (United Nations Framework Convention on Climate Change)
<b>CLRTAP</b>	Convention on Long-range Transboundary Air Pollution
<b>CRM</b>	Critical Raw Materials
<b>DBT</b>	Department for Business and Trade
<b>Defra</b>	Department for Environment, Food and Rural Affairs (UK)
<b>DAG</b>	Domestic Advisory Groups
<b>ETS</b>	Emissions Trading Schemes
<b>eNGO</b>	Environmental non-governmental organisation
<b>ECHA</b>	European Chemicals Agency
<b>EEA</b>	European Environment Agency
<b>EIPPCB</b>	European Integrated Pollution Prevention and Control Bureau
<b>FCDO</b>	Foreign, Commonwealth and Development Office (UK)
<b>IRA</b>	Inflation Reduction Act (USA)
<b>JRC</b>	Joint Research Centre
<b>NSEC</b>	North Seas Energy Cooperation
<b>REACH</b>	Registration, Evaluation, Authorisation and Restriction of Chemicals
<b>REUL</b>	Retained EU Law Act
<b>TCA</b>	Trade & Cooperation Agreement
<b>WEEE</b>	Waste electronic and electrical equipment



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