EFFECT OF BREXIT ON UK ENVIRONMENTAL POLICY

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Some introductory health warnings…

- Personal points of view
- Inherent uncertainty
How does EU Law apply in the UK?

- Regulations
- Directives
- ECJ Court Decisions
- UN Conventions implemented through EU Law
- European Commission guidance
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 not have 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 tackling diffuse water pollution
- A fall in greenhouse gas emissions and rapid recent growth in the deployment of renewable energy
- Significant reductions in the pressure on human health for 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

FN Source: Institute for European Environmental Policy: The potential policy and environmental consequences for the UK of a departure from the European Union
Overview of key environmental achievements of the EU (cont)

- 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.
How closely connected are UK and EU law?

*EU Waste Framework Directive 2008*

- Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2012
- Hazardous Waste (England and Wales) Regulations 2005
- Single Use Carrier Bags Charge (Wales) Regulations 2010
- Waste (England and Wales) Regulations 2011
- Single Use Carrier Bag Charges (England) Order 2015
How closely connected are UK and EU law?

- Clean Air Act 1993
- Environment Act 1995
- Air Quality Directive 2008
- Transport Act 2000
- Air Quality Standards Regulations 2010
- Air Quality Standards (Wales) Regulations
How closely connected are UK and EU law?

The Environmental Permitting (England and Wales) Regulations 2010

National Emission Ceilings Regulations 2002

Climate Change Act 2008

EU Industrial Emissions Directive 2010

Large Combustion Plants (Transitional National Plan) Regulations 2015
## What does "Brexit" look like?

<table>
<thead>
<tr>
<th>Does the UK retain access to the EU single Market?</th>
<th>Membership of the European Union</th>
<th>Inside the EEA Brexit Scenario 1</th>
<th>Entirely outside Brexit Scenario 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does it contribute to EU budget?</td>
<td>Yes</td>
<td>Yes (budget contribution would probably fall, however)</td>
<td>No, unless negotiated as part of an access deal</td>
</tr>
<tr>
<td>Do the CAP and CFP apply?</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Do EU environmental laws continue to apply to the UK?</td>
<td>Yes</td>
<td>Most of them will, with some exceptions e.g. the nature directives and Bathing Water Directive</td>
<td>No, but UK exporters will need to comply to export into the EU</td>
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What does "Brexit" look like? (cont)

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<td>Does the UK have a say in the formulation and amendment of EU policy on the environment? Yes</td>
<td>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</td>
<td></td>
</tr>
<tr>
<td>Would the UK continue to be subject to mechanisms to ensure compliance and penalties for non-compliance No</td>
<td>Yes, the European Commission retains enforcement powers and fines can be imposed for non-compliance No</td>
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<td>Would it be necessary to negotiate new trade arrangements which could have impacts on environmental standards?</td>
<td>No</td>
<td>In some areas, yes, including in relation to agriculture and fisheries</td>
</tr>
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</table>
Will we repeal our domestic legislation?

- In practice difficult given the extent of embedded law
- Apparently little appetite/rhetoric
- Business certainty driven
What does the future hold?

- Until "Brexit" position on EU Law remains
- EU27 unlikely to allow privileged access to single market without requiring compliance with majority of EU law
- If standalone, temptation to lower standards/lighten compliance procedure could be considerable. Environmental standards that impinge on economic interests could be most at risk given the race for competitive advantage over other countries.

- Short to Medium Term Objectives
  - implement Paris Accord
  - tighter emissions targets
  - put in place more circular economy
  - reducing natural resource consumption
  - managing seas/oceans/airspace to address pollution
What does the future hold? (cont)

- All require co-operation and coherence
- EU imperfect but allowed a forum for accelerating co-operation
- Stepping back from the EU could undermine the UK's ability to be a significant driving party
- Merger of DECC and BIS – Department for Business, Energy & Industrial Strategy
- Does dropping the words "Climate Change" mean that the policy goes out of the window?
The benefit of last minute preparation ....

- Dr Thérèse Coffey MP, newly appointed Resources Minster spoke before the Environmental Audit Committee on 7 September giving evidence to the Committee's inquiry into the "Future of the Natural Environment after the EU Referendum"

- Post-Brexit policy will follow an "outcomes" rather than being "prescriptive". On the Circular Economy: "It is a very interesting area and I am all for extending the lift of materials we have. Simply we need to be careful we need a focus on outcomes rather than being prescriptive."

- Regarding the European Commission’s Circular Economy Package (60% recycling target by 2030/recycling calculation methodology/waste definitions), the UK would "continue to play an actual role" in discussions but "too early to say" if the package will be adopted into legislation

- "People always want certainty but we will be seeking views on what outcome we want to see"
The benefit of last minute preparation ....

- Asked by Caroline Lucas how Government strategy would differ post Referendum, Dr Coffrey answered "The 25 year plan is the model. It was going to be the model if we were staying in the EU and it's still the model now we are leaving."
Questions?

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