Policy briefing

A NEW CHEMICAL ROMANCE?

How closer UK-EU collaboration would benefit the environment and climate

September 2024

This briefing sets out the potential benefits to our shared environment and climate from a closer UK-EU relationship, with both parties facing common problems we could resolve together. These benefits could be realised while keeping to Labour's red lines of not entering the EU's single market or customs union, particularly if the government is willing to align with key areas of EU regulation. Indeed, a shift from the last administration's commitment to 'regulatory autonomy' towards regulatory cooperation and alignment would not only improve environmental outcomes but also provide a sound basis for rebuilding and repairing relations with the EU and seeking to improve the trading relationship with the EU.

In this briefing, we set out the following potential benefits of closer UK-EU ties:

1. Aligning with the EU on chemicals is vital for **getting the UK's post-Brexit regulation of chemicals back onto a safe and secure path** and preventing considerable potential costs to the public purse from failure to regulate harmful substances at source.

2. **Increasing regulatory convergence** in a variety of additional areas of environmental policy would improve environmental outcomes and reduce friction with our closest partners, such as: formally linking the UK & EU Emission Trading Schemes (ETS) and Carbon Border Adjustment Mechanisms (CBAM) to prevent high-emission imports getting dumped on the UK market; harmonising air pollution rules; joining forces to tackle commodity-driven deforestation and aligning circular economy rules, particularly around batteries and packaging waste and in the efficient use of and search for critical raw materials which in many ways power our way to 2050 & Net Zero.

3. A closer relationship and, ultimately, membership of and **participation in key EU environmental regulatory agencies** would improve our technical knowledge and environmental policymaking.

4. **More harmonised and higher product standards** – would benefit UK consumers and the environment by avoiding the UK being a dumping ground for lower-quality products and would benefit UK businesses through greater export opportunities.

Context

The new Labour Government has set out its aspiration to forge a closer relationship with the EU, including reducing "unnecessary barriers to trade", as part of its core mission to grow the economy. It is very welcome that the new Government is looking to improve this relationship with the EU and indicated its willingness to align with the EU on chemicals during the election campaign. The Product Regulation & Metrology Bill provides legislative powers for Great Britain to align with new EU product regulations, with specific reference to 'relevant EU law... reducing or mitigating the environmental impact of products.' This marks a significant departure from the deregulatory thrust of the Retained EU Law Act, which provides powers to amend only retained EU law in a way which does "not increase the regulatory burden".

The decision of the Johnson Government to reject Theresa May's proposals for a 'common rule book' with the EU to 'take back control' of EU-derived regulation came not only at the expense of a more economically beneficial trading agreement with the EU but also of the UK's environmental protections.

Despite promises to maintain and strengthen environmental protections post-Brexit, the UK has tended to move more slowly with a less stringent approach to regulation compared to the EU. At the same time, the bloc has continued to expand and deepen its protections. While the British state has grown to accommodate new regulatory functions and tasks taken in-house post-Brexit, its comparative lack of capacity to match the scale and pace of EU regulation has meant fewer new environmental protections and a growing backlog of environmental strategies and policies. Without intervention the long-term effect of this legacy inherited by Labour would–mean: imports and production of products containing chemicals banned by the EU for being too harmful; more pesticides in Britain's soil and dirtier water, to name a few.

There is the potential for forging a closer and more beneficial relationship with the EU that still stays within Labour's red lines of not entering the EU's single market or customs union, particularly if the Government is willing to align with key areas of EU regulation. Where the previous Government preferred 'regulatory autonomy', this Government can forge a different path. In addition to improving the environment and climate outcomes on both sides of the Channel, this would also help rebuild trust with our European partners and reduce unnecessary barriers to trade for the benefit of both our economies.

1. The UK's post-Brexit regulation of chemicals: getting it back onto a safe and secure path

- **The chemical pollution problem:** In addition to sewage pouring into our rivers and seas, not a single river in England is in good chemical health, which has serious impacts on the wildlife they support. In addition to contaminating our rivers, PFAS, also known as 'forever chemicals', have been found in high concentrations in our drinking water, in pollution hotspots across the UK and even in our blood. Public exposure to harmful chemicals is contributing to a significant rise in the incidence rates of a range of public health conditions. Regulating harmful substances at source is critical for preventing pollution, as once persistent chemicals have entered the environment, their removal is extremely challenging and costly.
- **The UK's regulation of hazardous chemicals:** Rather than addressing this crisis, the UK's post-Brexit regulatory system has focussed on just a fraction of EU protections at a slower pace. The decision of the last government to leave the EU REACH (Registration, Evaluation, Authorisation and restriction of Chemicals) Regulation – which sets the highest standards globally – was criticised by businesses, health groups and environmental charities.
- Due to a lack of capacity to match the scale and pace of EU REACH, **the UK has fallen behind EU protections from harmful chemicals, and this gap is set to widen**. Since the UK left the EU system and established its parallel system, it has not adopted a single restriction on a harmful substance compared to 10 new restrictions adopted in the EU, such as on microplastics that are intentionally added to products. There has also been a gradual weakening of chemical safety rules. For example, just before the election, the last government proposed weakening the safety data companies must provide on substances placed on the UK market, making it even harder for the UK regulator to do its job. Unless the system is urgently fixed, the public purse will ultimately have to pick up the cost of increased levels of chemical pollution.
- Bar a few exceptions,[1] the UK has fallen behind the EU in many areas of environmental regulation since EU exit.

2 *Good examples are the introduction of a biodiversity net gain policy and Environmental Land Management in England.*

∞ **Benefits of alignment with the EU:** Adopting a default policy of alignment would provide a safe, stable and sustainable model for the UK that would:

- Maintain a high level of environmental and health protection for the UK, pegged to the highest standards globally.
- Maintain an effective and efficient system with constraints on public spending. The regulator could focus limited capacity on areas where it could go further than EU regulation rather than duplicating work already undertaken in the EU to assess the risks of harmful chemicals and measures needed to manage them.
- Provide regulatory certainty for UK businesses and reduce their costs complying with UK REACH, without this being done at the expense of chemical safety standards.
- Help to unlock barriers to trade, such as via mutual recognition agreements.

2. A convergence in environmental policy

∞ Harmonising air pollution rules with EU neighbours would reduce the risk of harmful transboundary pollutants affecting both of us and would help reduce the premature deaths of our citizens.

∞ Aligning with EU rules on the efficient use of and search for critical raw materials would help the UK power its way to Net Zero in 2050 and reduce the risk of relying on uncertain supply chains and market disruption.

∞ A common approach to tackling commodity-driven deforestation would reduce the risk of the UK becoming a dumping ground for products not suitable for the EU. It would also signal to European partners that we are unified in our view that both illegal and legal deforestation must end.

∞ Aligning with higher EU standards on the circular economy, particularly around batteries and packaging waste, would create more certainty for businesses, reduce costs, and would, like on deforestation, reduce the risk of the UK becoming a dumping ground for lower-quality products.

∞ Linking the EU & UK Emissions Trading Scheme (ETS) & Carbon Border Adjustment Mechanisms (CBAM) would:

- Bring economic benefits and tax revenue for the UK with participation in larger overall carbon market with greater liquidity e.g., approximately 1000 industrial installations in UK ETS compared to 10,000 in EU ETS.
- Help to normalise the concept of ETS and CBAMs where the threat of WTO claims loom.
- Avoid potential difficulties over how Northern Ireland is factored into any new arrangements. NI is not wholly in either the EU or UK ETS – for example, for electricity generation it is in the EU ETS. On CBAM, for goods flowing between GB and NI, these would be subject to CBAM charges.
- Avoid potential charges to UK exports that will become subject to EU CBAM rules in 2026 (the UK carbon price has fallen dramatically over the last 18 months, with the UK price roughly 50% cheaper than EU price).
- Be aligned with a precedent, i.e., the Swiss and EU ETS systems, which are notionally independent but linked. Lessons can be learned from this experience.
- Signal to European partners as well as globally, that the UK is once again willing to lead in global discussions on climate policy.

3. UK participation in technical and specialist European-wide agencies

- Replacing the functions of certain European-wide agencies, particularly the European Environment Agency (EEA) and the European Chemicals Agency (ECHA) with indigenous alternatives has come at a significant cost to the UK taxpayer and has produced questionable results. It has also diminished the scope for environmental cooperation at a more technical level.
- The EEA and ECHA provide economies of scale that reduce the cost of regulation and improve environmental outcomes, for example, by improving access to Europe-wide data.
- Cooperation with the EEA, for example, would plug the gap in European-wide environmental knowledge, which is vital as many environmental issues do not respect boundaries. In this wider European context, it will be possible to assess changes in the UK's environment more accurately & compare this with our European neighbours.
- Being a member once again of the EEA would provide the impetus to produce a single, complete nationwide picture of the state and trends in the UK environment, which has been lost in a variety of thematic policy areas. In many circumstances this has been replaced by four separate datasets and reports, none of which are necessarily cognisant of the rest of the UK or the wider European state of the environment.

4. More harmonised and higher product standards

Given the economic reality that EU product standards have a much wider reach than those only applicable nationally, UK governments should accept that establishing separate or parallel standards is only justifiable where the net benefits are substantial and demonstrable, however unpalatable it is to be a 'policy taker' rather than 'policy maker'. Aligning with often tighter and higher product standards set in the EU are that:

- It prevents the UK becoming a 'dumping ground' for lower-quality products which are less safe or riskier in terms of health and environmental standards.
- UK exporters need not operate multiple production lines for differing standards between the EU and the UK, reducing costs for businesses (and consequently consumers).
- It avoids any potential challenges by the EU to the Trade and Cooperation Agreement under which the UK promised to maintain high environmental standards after Brexit.
- It avoids difficulties within the UK internal market – Northern Ireland is bound by many EU product standards and continued divergence increases the need for checks on goods moving from GB to NI, risking an Irish Sea border.

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CHEM Trust is an environmental charity. Our mission is to prevent synthetic chemicals from causing long term damage to wildlife or humans, by ensuring that chemicals which cause such harm are substituted with safer alternatives.

The Institute for European Environmental Policy UK (IEEP UK) is a not-for-profit sustainability think tank, with over 40 years of experience. As part of the broader IEEP family, we are committed to advancing evidence-based research, analysis and policy insights concerning the UK and its interaction with policy in the EU and globally.