



**Maintaining the coherence of environmental
policy between the EU27 and the United
Kingdom post Brexit**

Dr. Roderic O’Gorman
School of Law & Government,
Socio-Legal Research Centre
Dublin City University

Option 1: EFTA + EEA

**Environmental legislation not covered by EEA
Agreement (Annex XX)**

- wildlife protection,
 - some water quality rules,
 - radiation control
 - Kyoto Protocol
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- Note the EEA Agreement excludes the
Common Fisheries Policy and much of the
Common Agricultural Policy

- Consultation on EU legislative process
- EEA and Norway Grants
- EFTA-EEA states are members of the European Environmental Protection Agency

Option 2: EFTA on its own (Swiss Approach)

Free Trade Agreement (within EFTA)

Successful bilateral agreements:

- Agreement on Air Transport
- Agreement on the Carriage of Goods and Passengers by Rail and Road

Unsuccessful bilateral agreements:

- linking the EU and Swiss emissions trading schemes
- opening up the national electricity market to the EU market

Swiss representatives attend informal meetings of EU environmental ministers.

Financial contributions to the 10 accession states in order to improve their national infrastructure on a number of headings, including the environment

Switzerland has been a member of the European Environmental Agency since 2006

Option 3: Customs Union

- Membership of the customs union requires adherence to Union legislation regulating safety of goods, the quality of food stuff, risks to animals and plants from disease, the live transportation of animals and the import of exotic species.
- The particular environmental requirements cover areas such as chemicals, ozone-depleting substances (ODS), fluorinated greenhouse gases, endangered species and waste.

- Customs Union which the EU entered into with Turkey from 1996
- Article 5 and Article 6 of the agreement prohibit quantitative restrictions on imports and exports respectively along with measures having equivalent effect.
- Article 7 of the agreement sets out a range of exceptions to the ban on quantitative restrictions, including on the grounds of “the protection of health and life of humans, animals or plants”. The language used in the three articles is identical to that contained in the TFEU.
- Turkey also joined as a member in 2003

- **Option 4: Bilateral Agreement on a Non-Trade Basis**
- *European Neighbourhood Project (ENP)*
- Article 8(1) TEU (Lisbon) “The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation”.

Union for the Mediterranean (UfM)

- “intergovernmental organisation ... to enhance regional cooperation and dialogue in the Euro-Mediterranean region”.
- Two ‘priority areas’ identified for the organisations work include Energy & Climate Action and Water & Environment. Work under these headings is undertaken through annual ministerial conferences.

Eastern Partnership

- Has a number of multilateral platforms. The 2nd of these (Economic integration & convergence with EU policies) states, includes a panel addressing “Environment and Climate Change”.

B: Enforcement of Environmental Law Through International Mechanisms

Limited Impact of Brexit

- *OSPAR Commission*
- *Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention)*
- *Convention on Biological Diversity*
- *Convention Concerning the Protection of the World Cultural and Natural Heritage (UNESCO World Heritage Convention)*

Some Impact from Brexit

- *Ramsar Convention*
- *Convention on the conservation of migratory species of wild animals (Bonn Convention)*
- *CITES (Convention on International Trade in endangered Species of Wild Fauna and Flora)*

Conclusions

- EEA clearly best option, though key EU policies omitted
- All other options seen environmental law/policy fragmented
- Existing relationships with ENP states are principally on the basis of economic disparity, with the EU supporting discrete projects
- UK's ability to influence future developments: limited – non-existent
- European Environmental Agency (and Eionet) membership common

- Swiss model not v attractive
- What will the nature of the 'creative arrangement' between UK-EU27 be?
- Union has competence to work with third countries specifically in the field of the environment:
- Article 191(1) TFEU "... promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change".
- Will the environment even feature in the 'creative arrangement'?
- Could be left in situation where international agreements are the level of mutual cooperation.