

## A “Norway-plus” relationship: appendix to Greener UK’s briefing on the meaningful vote

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Public debate in the UK has recently included the potential for the UK to join the European Free Trade Association (EFTA) and sign up to the European Economic Area (EEA) Agreement, while remaining in a customs union with the EU – the so-called “Norway-plus” option. This would represent a closer relationship with the EU than that set out in the current political declaration.

### Standards

The EEA Agreement covers a significant amount, but not all, of EU legislation.<sup>1</sup> Under this scenario, the UK would be bound by most EU environmental laws (e.g. Environmental Impact Assessment Directive, Ambient Air Quality Directive, Waste Framework Directive, Water Framework Directive, Industrial Emissions Directive and the ‘REACH’ chemicals regime), so it would not be able to water down the protections within those laws. It would also include participation in the internal energy market, Emissions Trading System and renewables and energy efficiency legislation.

The EEA Agreement requires dynamic alignment, so domestic law would have to be updated in line with new EU legislation. This means that the UK would become a ‘rule taker’ from the EU, with a significant impact on people’s right to participate in environmental decision-making. As with membership of the EU, the UK government would have freedom to go further and, for example, commit to a set of more ambitious targets via the promised Westminster Environment Bill.

A smaller number of important EU environmental measures are not incorporated in the EEA Agreement (e.g. Birds and Habitats Directives)<sup>2</sup>. However, there are indications that the EU would require the ‘level playing field’ commitments in the Withdrawal Agreement and political declaration, which include nature conservation, in any agreement<sup>3</sup>.

Environmental principles are reflected, to a degree, in Article 73 of the EEA Agreement, but there is a worrying omission of the precautionary principle from that Article. The UK would be outside the EU’s Common Agricultural Policy, so could press ahead with current plans to put environmental enhancement at the heart of land management, though substantive proposals so far only cover England and Wales. The Common Fisheries Policy would also no longer apply, and the UK would need to improve current proposals for new domestic fisheries governance, which fall short of the environmental standards we need.

## Enforcement

Compliance with EU-derived legislation within the EEA is monitored by the EFTA Surveillance Authority (ESA) and handled by the EFTA Court. The EFTA Surveillance Authority can intervene and initiate infringement proceedings against EEA EFTA States, which may ultimately be adjudicated by the EFTA Court. However, unlike the ECJ, the EFTA Court does not have the power to issue fines. Whilst action has been initiated on some environmental issues (e.g. air quality in Norway), it is uncertain whether enforcement is as effective as by the ECJ.

It seems likely that the EU and UK would still agree to include reciprocal commitments on enforcement, similar to those set out in the current Withdrawal Agreement and political declaration, and also to fulfil the UK government's commitment to create a "world-leading" environmental governance body.<sup>4</sup>

## Co-operation

The Norway-plus option is the closest form of relationship possible without being an EU member, and would preserve most of the existing mechanisms for environmental co-operation. For example, the EEA EFTA States participate in a range of EU agencies including the European Chemicals Agency (ECHA), European Environment Agency (EEA) and European Food Safety Authority (EFSA). However, EFTA EEA countries have no representation or voting power in EU institutions such as the European Commission, the Parliament or the Council. By extension, this limits the ability of civil society to participate in decision-making, although it can engage in 'decision shaping' by making submissions and providing expert advice in the early stages of the policy formulation process.

## Trade

The EFTA States (Norway, Iceland, Liechtenstein and Switzerland) jointly negotiate free trade agreements (FTAs) with partners outside the EU and currently have 29 FTAs covering 40 countries and territories outside the EU. However, discussion in the UK has focused on a potential 'Norway plus' model where the UK would be in a customs union with the EU. This would constrain the UK's trade policy, keeping it firmly within the EU's regulatory sphere and preventing a pivot to the US that could put pressure on the UK to remove environment-related EU rules in areas such as chemicals and food.<sup>5,6</sup>

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## Endnotes

- 1 <http://www.efta.int/About-EFTA/Frequently-asked-questions-EFTA-EEA-EFTA-membership-and-Brexit-328676>
- 2 A fuller list can be found on page 8 of this ENDS report:  
<https://www.endsreport.com/reports/euref>
- 3 <https://blogs.sussex.ac.uk/uktpo/2018/11/21/environmental-non-regression-in-the-withdrawal-agreement-forcing-the-eus-hand-on-the-level-playing-field/>
- 4 <https://consult.defra.gov.uk/eu/environmental-principles-and-governance/>
- 5 <https://www.cer.eu/publications/archive/bulletin-article/2018/effective-uk-trade-policy-and-customs-union-are>
- 6 <https://www.independent.co.uk/news/business/news/brexit-us-trade-deal-uk-wish-list-representative-negotiations-chlorine-washed-chicken-tariffs-a8292006.html>

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