



POST BREXIT AN ENVIRONMENTAL RISK ANALYSIS

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I. INTRODUCTION

What is Brexit?

'We have our own dream and our own task. We are with Europe but not of it. We are linked but not combined. We are interested and associated but not absorbed. If Britain must choose between Europe and the open sea, she must always choose the open sea.'

-Winston Churchill

The Boris Johnson government has finally been able to pave a feasible path for the exit of Britain from the European Union, after some tough battles and times where everyone thought that a no Brexit deal was the most probable option.

Before we delve into the crux of the matter, let's get a good grasp about the concept of the term 'Brexit'.

It was on 23rd of June, 2016, that, through a referendum, the United Kingdom (UK) decided that they would be leaving and abandoning their alliance with the European Union (EU), leading to the term, 'Brexit' or 'British exit'. This caused turmoil and a torrent of consequences of a wide spectrum.

The British pound dropped down to its lowest in 30 years when compared to the dollar. Prime Minister David Cameron, who had called for the referendum, resigned his office and Theresa May, Home Secretary, took his place in lead, further being replaced by Boris Johnson. The decision to exit was voted for, according to the statistics provided by the Election Commission, by 51.9 percent of the ballot, which is 17.4 million votes approximately. The process of leaving the EU formally began on 29th March 2017, when Theresa May triggered Article 50¹ of the Lisbon Treaty². UK was given a time period of 2 years to prepare (subject to further

¹1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.

2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.

3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after

the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.

4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council in decisions concerning it.

A qualified majority shall be defined in accordance with Article 238(3)(b) of the Treaty on the Functioning of the European Union.

5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article 49.

²Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007.



extensions as we all saw), as is prescribed under Article 50 and the negotiation talks began on 19th June 2017. The two main controversies or hurdles were that Britain's constitution is unwritten and that no other country has ever left the EU by employing the provisions of the said Article 50.

There seemed to be a deadlock when communication started between the two parties due to opposing interests. While Britain was focusing on the terms of its withdrawal alongside the terms of its post-Brexit relationship with Europe, the EU just wanted to hurry up and get the divorce proceedings done with and winded up. On 8th December 2017, however, the two sides came to a mutual understanding and released a joint statement describing an "agreement in principle" regarding the most complicated separation issues that need to be dealt with to pave the way for talks about a future trade relationship to begin.

The talks mainly consisted of four issues, namely,

- a) Formation of the 'Brexit Bill' to conclude a financial settlement between both the parties to decide how much the UK owes the EU.
- b) The consequences of reinstating border controls on the Northern Irish Border.
- c) What happens to the UK citizens residing elsewhere in EU and the EU citizens residing in the UK?
- d) Scotland claimed this process to be "democratically unacceptable" as they are being forced to leave the EU even though they had opted to remain.

Two terms that come into play in the negotiations are 'soft' Brexit and 'hard' Brexit. These two terms have no particular definition and are unofficial terms mainly used by the media; however they simply refer to the closeness of the UK's relationship with the EU post-Brexit and their prospective relationship. Hard Brexit means cutting off of all ties by the UK and refusing to co-operate on issues like free border movement of people, whereas, soft Brexit implies more cordial accords and amicable future behavior, like participating in the single market.

With all this, the scheduled day and time for the official exit of Britain from the EU was 11pm UTC, 29th March 2019³, which we all know did not happen.

Even though Brexit is talked about all around only in a political and economic sense, we rarely discuss the implications this will devise on other fields, such as the environment, which will be monumentally affected by this decision. All over the internet, the only issues that are being discussed are political and economic and people are forgetting about how this decision will impact the environment and mainly its protection and conservation.

In October 2016, Theresa May promised a "Great Repeal Bill", which would repeal the European Communities Act 1972 and restate in UK law all enactments previously in force under EU law. Subsequently renamed the European Union (Withdrawal) Bill, it was introduced to the House of Commons on 13 July 2017.

So with the above in mind, where will this leave the environmental laws of the UK?

³A time of 2 years is provided from the date of initiation of Article 50.



II. PRE-BREXIT ENVIRONMENTAL REGULATIONS

EU

Let us understand what exactly the damage that will be done is and what will be its magnitude by placing the existing EU environmental regulations, which even Britain fell under, under a microscope. This is necessary to understand what environmental position Britain will be in after officially leaving the EU and this will also help us compare Britain's environmental regulations as under the EU and what they propose will be their new stand on the matter and if their new policies and legislations will be as effective, more effective or less effective, comparatively.

The European Union (EU) is considered by some to have the most extensive environmental laws of any international organization and to be of the highest standards. Its environmental policies are significantly intertwined with other international and national environmental policies as well. The environmental legislation of the European Union also has significant effects on those of its member states and the UK is no exception. About 80 percent of the environmental laws and regulation policies of the UK come from the EU. So when UK finally leaves the EU, there

will be a monumental transformation in UK's environmental policies.

The Wild Birds Directive was one of the first pieces of purely environmental legislation at a European level and was adopted in 1979 under Article 235 EEC.⁴ As the EU evolved, and as awareness of global threats to the environment became more and more acute, the EU competence in respect of environmental policy expanded. With the coming into force of the Single European Act in 1987 Treaty powers explicitly authorizing environmental action at EU level were established for the first time, and the scope of these powers (now embodied in Title XX of the Treaty on the Functioning of the European Union or TFEU) has not changed much since that time.⁵ Even after 1987, however, most of the legislations that were 'environmental' in character continued to be made under the same standard Single Market legal base. Thus the first EU legislation on energy efficiency labeling of household appliances, introduced in 1992, used an Article 100 EEC legal base.⁶ More recently, the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation, which regulates chemical substances in the EU, and the Directive on the restriction of the use of certain hazardous substances in electrical and electronic equipment⁷, have also used the standard Single Market legal base. Within Title XX,

⁴Article 235- If action by the Community should prove necessary to attain, in the course of the operation of the common market, one of the objectives of the Community and this Treaty has not provided the necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, take the appropriate measures.

⁵House of Lords European Union Committee, *Brexit: Environment and Climate Change* 109 (12th ed. 2016-17).

⁶Council Directive 92/75/EEC of 22 September 1992 on the indication by labeling and standard product information of the consumption of energy and other resources by household appliances, OJ L 297 (13 October 1992), pp 0016–0019.

⁷Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment, OJ L 174 (1 July 2011) pp 147–169.



Article 191⁸ of the Treaty on the Functioning of the EU (TFEU)⁹, as amended over the years, sets out the EU's objectives for environment policy: "Union policy on the environment shall contribute to pursuit of the following objectives:

- preserving, protecting and improving the quality of the environment,
- protecting human health,
- prudent and rational utilization of natural resources,
- promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change."¹⁰ Since its adoption in 1987 Title XX has provided the legal base for a range of 'purely' environmental legislation, including the Habitats Directive of 1992,¹¹ which provided for the conservation of rare endemic animal and plant species, and the Water Framework Directive of 2000,¹² which established a framework for protecting European rivers, lakes, and coastal waters, among others. A Title XX legal base also underpinned the introduction of the first EU Emissions Trading Scheme, a key component of the EU's policy on combating climate change and reducing greenhouse gas emissions.¹³

Professor Richard Macrory, Professor of Environmental Law at University College London, said that in Kramer's EU Environmental Law (2011) it has been listed

that 111 Regulations, 256 Directives and 136 Decisions that were in place by 2010.

EU environment policy rests on the principles of precaution, prevention and rectifying pollution at source, and on the 'polluter pays' principle. The precautionary principle is a risk management tool that may be invoked when there is scientific uncertainty about a suspected risk to human health or to the environment emanating from a certain action or policy. For instance, should doubts arise about the potentially harmful effects of a product, and should — following an objective scientific evaluation uncertainty persist, instructions may be given to stop the distribution of the product or to remove it from the market. Such measures must be non-discriminatory and proportionate, and must be reviewed once more scientific information is available.

The 'polluter pays' principle is implemented by the Environmental Liability Directive, which aims to prevent or otherwise remedy environmental damage to protected species or to natural habitats, water and soil. Operators of certain occupational activities such as the transport of dangerous substances, or of activities that imply discharge into waters, have to take preventive measures in case of an imminent threat to the environment. If damage has already occurred, they are obliged to take the

⁸Ibid.

⁹European Union, *Consolidated version of the Treaty on the Functioning of the European Union*, 13 December 2007, 2008/C 115/01, available at: <http://www.refworld.org/docid/4b17a07e2.html> [accessed 13 July 2018].

¹⁰House of Lords European Union Committee, *Brexit: Environment and Climate Change 109* (12th ed. 2016-17).

¹¹Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, OJ L 206 (22 July 1992), pp 7–50.

¹²Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, OJ L 327 (22 December 2000), pp 1–73.

¹³House of Lords European Union Committee, *Brexit: Environment and Climate Change 109* (12th ed. 2016-17).



appropriate measures to remedy it and pay for the costs. The scope of the directive has been broadened three times to include the management of extractive waste, the operation of geological storage sites, and the safety of offshore oil and gas operations respectively.¹⁴

As has been already mentioned, EU environmental laws have come a long way. Today we have various legislations like, Environmental Protection Agency Act 1992, Waste Management Act 1996, Waste Management (Amendment) Act 2001, Local Government (Water Pollution) Act 1977, Local Government (Water Pollution) (Amendment) Act 1990, Air Pollution Act 1987, Planning and Development Act 2000, Protection of the Environment Act 2003.

In addition, there is a range of Statutory Instruments implementing legislation concerning particular Directives. Information on these is available from the Department of Communications, Climate Action and Environment. We also have the Common Fisheries Policy (CFP), Common Agriculture Policy (CAP), The Environment Protection Agency and the European Environment Agency.

EU law and legislations are enforced by the European Commission, which acts as the 'Guardian of the Treaties', and is overseen by the Court of Justice of the European Union (CJEU), which has the power to levy fines on Member States that are found to be in breach of the law.

III. HOW HAS UK BENEFITTED FROM EU ENVIRONMENTAL LAWS TILL NOW?

While far from perfect, EU membership has benefited the UK's nature and environment significantly.

In the 1970's the UK was known as the 'dirty man of Europe'. All the pollution from the UK coal-fired power stations was causing acid rain which resulted in forests all across Europe withering. EU took an action on air quality to put an end to this. As a result of, Sulphur dioxide emissions dropped by 94% by 2011. This prevented an approximately 46,000 premature deaths between the time period of 1990 and 2001. Some of the UK's best loved nature and tourist sites are protected by the EU — places like Cannock Chase, Flamborough Head, Dartmoor and Snowdonia. Before European Nature Directives kicked in, the UK was losing about 15% of their protected sites a year, again due to EU intervention; it's down to 1%. In the 1970's the UK pumped out untreated sewage straight into the sea, but EU laws, and the threat of fines, forced them to clean up their act and consequently now, over 90% of the UK beaches are considered clean enough to bathe in.

EU nature and protection of wildlife laws have helped the recovery of a lot of animal species which were endangered or on the verge of being so or of ceasing to exist. For example, EU laws have helped the recovery of the bittern, a rare short-necked heron, which almost disappeared because of drastic loss of its reedbed habitat and other pressures. The UK has already lost more than

¹⁴Tina Ohliger, Environment Policy: General Principles and Basic Framework (2018).



a dozen types of bee, and another 35 kinds of bees are at a risk of being extinct. But several precious bee species are found in EU-protected places such as Lewes Downs in Sussex, and the saltmarshes of the east coast, which will help in their survival. Before the EU laws were adopted by the UK, there were just 3 protected marine areas around the British coastline. However, now, with the advent of EU regulations, there are over 100 Natura 2000 sites¹⁵ in UK seas. EU nature laws protect important fish stocks, like the Atlantic salmon, as well as the cold-water reefs.

The UK is expected to, as per EU regulations, generate 30 per cent of its electricity and 12 % of its heating energy from renewable sources. In addition to that, it is also bound by a sub-target for transport, requiring 10 % to come also from renewable sources. The EU has also planned on cutting the level of carbon emission by 40 % till 2030. The UK, like other member states of the EU, must hit a target of recycling 50 % of its household waste by 2020. The EU is also considering imposing targets requiring the UK, and most other EU nations as well, to recycle 45 % of their waste by 2030.

On top of this, the EU also takes out various directives to help achieve optimal environmental protection and efficiency in doing the same. Directives are a form of European legislation that set out a target to be achieved by all of the EU member states. Each country then comes up with their own domestic laws in order to meet these directives. Directives don't involve any implementing measures. They can also be called guidelines that the countries should

follow. Following are some of the EU directives:-

- The Water Framework Directive

Protecting rivers, lakes, groundwater, estuaries and coastal waters, taking action on water quality and pollution levels, to provide a good ecological status to all wetlands.

- The Urban Wastewater Treatment Directive

Directly address the cleanup of urban wastewater treatment like pollution from industrial chemicals.

- The Birds Directive

To protect all wild birds across the EU, focusing mainly on endangered species, migratory species and also on special protection areas.

- The Habitats Directive

The Birds Directive and the Habitats Directive form the basis for Europe's conservation policy and 'Nature Directives' when combined together. Under special areas of conservation protection is provided to over 1600 endangered species and north of 200 habitat types.

- The Air Quality Framework Directive

Keeping a check on air pollutants level and quality, specifically the emission of sulphur dioxide from the UK.

- The Environmental Impact Assessment Directive

This assessment is necessary to be undertaken for any major developments or developments proposed for sensitive locations.

¹⁵ EU Nature Laws — What They Are, How We've Defended Them, and Why We'll Still Need Them Post-Brexit (23rd March, 2020, 3:31 PM),

<https://friendsoftheearth.uk/brexit/EU-nature-laws-we-still-need-them>.



Now that we have a grasp on the present situation, the next section of the paper will talk about the implications that UK will face due to Brexit and how are they planning on coping with it.

IV. IS THE GREEN BREXIT PROMISED BY THE GOVERNMENT FARFETCHED?

Even though as has already been mentioned before, that not much due importance was given to the environmental aspect of Brexit, a lot of concerned citizens and foundations like 'The Friends of the Earth' came forward on a public platform and started rattling government cages in order to find out where will Brexit leave the environmental regulations of the UK. This in turn was answered by a lot of public statements made by government officials securing the trust of the public that the negotiators had the good of the environment in mind and that the same will not be jeopardized. However, the same has still yet to be proved because of the mountain load of consequences that will come knocking on UK's door. This chapter will look into the problems that UK will face, environmentally speaking and what the government is, or has planned on doing to tackle the same.

A coalition of various leading environmental groups in the UK says that there is a significant risk that British environmental protections will be reduced after Brexit, despite the government's positive rhetoric that they will take full measures towards securing the environment. 'Greener UK', which consists of 13 campaign groups including WWF, National Trust, RSPB, Friends of the Earth, Green Alliance and the

Wildlife Trusts, etc, says there are serious concerns that the government will not cooperate with the European Union after Brexit on environmental issues because they believe that there may be a lack of willpower on behalf of the government to ensure high standards across the UK.

Even the United Nations (UN) got involved in this fiasco after the proposals to protect the climate by the government after Brexit were dismissed as 'toothless' by green campaigners. The UN has warned the British government that the reputation of UK is at stake over plans that would significantly weaken environmental protections. Erik Solheim, the Executive Director of the UN's environmental programme, called on the Environment Secretary of the UK, Michael Gove, to honour their promise of a Green Brexit. Even if they don't however, under the new post-Brexit plans, the green watchdog would not have the power to take the government to court over breaches of environmental breaches.

The UN is also involved in this matter as a UN-backed committee has confirmed it is considering a complaint from Friends of the Earth that the government's EU withdrawal bill breached the Aarhus convention, which requires public consultation on any new environmental law. Most of the UK's environmental laws derive from or interact with EU law, and Friends of the Earth (FoE) has raised concerns that the bill gives ministers "unique and wide-ranging powers" to amend or delete EU-derived environmental law without public consultation, if ministers consider it



appropriate.¹⁶ The government may have breached the convention in two ways, Friends of the Earth says: by failing to set out a consistent legal framework to allow public participation in the preparation of new environmental legislation (Article 3), and by not giving the public an opportunity to comment on the bill before it was presented to parliament to be made into law (Article 8). Friends of the Earth says the government failed to consult with the public, and by calling a snap election, any possible engagement with the bill's white paper was prevented.¹⁷

Even Theresa May's 25 year environmental plan was, though welcomed, but was also heavily criticized. Many loopholes and non-provisionaries were pointed out along with the fact that the government is trying to arm themselves with an irrationally long period of 25 years, which aims to not only conserve, but also improve the environment, but no clauses to support the same. It has been stated to be "fundamentally flawed" and "a long way off".

Even in the new drawn out plan, not many of the pre-existing EU's environmental regulations have been ratified by the British government. After Brexit, UK will no longer be a party to the EU legislations and treaties and if they want the same standard, they will have to incorporate the same into their domestic law, which they have failed to do. They have only ratified 26 international

environment agreements which the EU wasn't part of and have not yet clarified which all EU only regulations they intend on keeping.

"The government set high expectations with promises of a world-leading environmental watchdog and enhanced environmental standards. Yet the consultation released today proposes to give the environment and countryside less protection after Brexit than exists now,"¹⁸ said Shaun Spiers, chair of Greener UK. She continued to say that, "There is no commitment to give the proposed new watchdog power to initiate legal action, nor is there any commitment to enshrine vital environmental principles, such as the precautionary principle and the polluter pays principle, in law. This is hugely disappointing and suggests that some ministers do not want to be held to account on laws that protect our beaches, habitats and air quality."¹⁹

MAIN AREAS OF CONCERN

UK has always been a little lax when it comes to taking care of the environment. They believed in cure is better than prevention. However under the umbrella of EU's stringent environmental laws that all changed. Now that Brexit is taking place the pre-existing problems and even new ones will start resurfacing because the government is not focused on protecting the environment

¹⁶UN Report, Brexit Bill May Have Broken International Environment Law (10th April, 2020, 4:45PM), <https://www.theguardian.com/environment/2018/jan/09/brexit-bill-may-have-broken-international-environment-law-says-un>.

¹⁷Ibid.

¹⁸Josh Gabbatiss, Government's post-Brexit environment laws will not enshrine EU principle that makes business pay for pollution they cause (5th April, 2018, 4:55PM), <https://www.independent.co.uk/news/uk/politics/brexit-environment-standards-uk-protection-eu-law-michael-gove-a>.

¹⁹Ibid



and the 25 year plan they have put forward just doesn't cut it.

- **Pollution**

One of the biggest problems that UK had to face was that of air pollution. UK, as has been mentioned before as well, has the biggest emission of Sulphur dioxide and nitrogen dioxide gas. Under the EU regulations however, there came to be a change due to constant checks by the EU, however UK had breached the emission levels multiple times and the EU has had to warn them. The post Brexit environmental policy is barely regarded as a preventive measure in this regard and as history repeats itself, UK might go back to becoming the dirty man of Europe.

- **Waste**

As a consequence of Waste Frame Directive the EU had a strong hold on enforcing stricter waste collection and disposal facilities while creating a circular economy and it had a remarkable effect on the British. This area is particularly vulnerable to the consequences of Brexit, as there is a national shortage of facilities for processing refuse-derived fuel and recyclates, which has resulted in exporting waste to other member states.²⁰ On top of that, since UK will no longer be a part of Euratom, it will have to replicate the alliance's safeguarding arrangement with the International Atomic Energy Agency immediately to avoid serious consequences of nuclear waste management.

- **Energy**

All business undertakings in the UK are bound to follow the EU's Energy Savings Opportunity Scheme Regulations 2014, which are primary regulations to lower energy consumption. It requires businesses to:

- 1) Calculate total energy consumption
- 2) Identify areas of significant energy consumption
- 3) Appoint a lead assessor
- 4) Notify the applicable environmental agency
- 5) Keep records

Once UK is out of the EU, UK might find itself stuck in a funny position while being pressured from two sides. On one hand, UK businesses might try to coerce and pressuring the government to make these regulations more lenient, whereas on the other hand, it will be difficult to deviate too far from the regulations, as any new UK regulation must comply with the European standards in order to keep their trading relationship alive.

The EU is in the advanced stages of establishing a single market for gas and electricity, aimed at ensuring low-cost and reliable supply for consumers across the EU by enabling supply from other countries. EU legislation in the field regulates access to this single market and includes safeguards against distortion of the energy market from a competitive perspective as well as protection measures for energy consumers.²¹ Though EU membership is not a precondition to access the unique single energy market of the

²⁰Alex Brown, Brexit's Impact on The UK's Environmental, Health and Safety Regulations (25th March, 2020, 5:43PM), <https://www.red-online.com/hse/2017/11/28/brexit-ehs-impact-004728>.

²¹Brexit: the implications for environmental law (12th April, 2020, 3:20PM),

<http://www.elexica.com/en/legal-topics/environment-and-climate-change/brexit-the-implications-for-environment>.



EU, the UK would not be permitted to join the market if it does not meet the high standards prevalent in the EU. As the EU lays emphasis on low and zero carbon initiatives, the UK would be required and expected to keep up with the EU or face being cut off from the European market, which would be a risk from both the perspective of energy security and as well as for the business of energy suppliers in UK.

The EU is also very strict when it comes to the reliability on renewable energy resources. This is one point where the UK has not seen eye to eye with the EU and will most probably will change their renewable energy policy for the worse.

- **Climate Change**

The UK has its own, legally binding and ambitious commitments towards reducing carbon emissions via the Climate Change Act 2008. Schemes to reduce carbon emissions, such as the EU Emissions Trading Scheme, would be greatly impacted by Brexit. UK would be free to join a newly created national emissions trading scheme with the wider EU scheme, though without that link, a smaller UK national system would face similar difficulties to Switzerland in trading and pricing emissions efficiently. Negotiating access to the EU ETS is likely to take several years, based on Switzerland's experience. The Government may need to introduce new requirements, schemes or incentives for emissions reduction in order to stay on track to meet its reduction targets. The UK is the biggest single recipient of climate-related investment via the European Investment Bank's Climate Awareness Bonds, with eligible projects including wind, hydro, solar and geothermal energy production,

sustainable transport and energy efficiency projects. The London Array Offshore Wind farm in the Thames Estuary received €244m under the initiative. Over the next five years, the EIB proposes to lend €100bn. If the UK leaves the EU, it will not automatically become ineligible to receive such loans, but the bank has said that non-EU countries and non-shareholders cannot expect the same benefits. Countries outside the EU have received only 12% of total available funds since the initiative was launched in 2007. Considering that the UK has since that time received 24% of available funds, a Brexit could have a real impact on green investment in the UK. It is not expected, however, that funds paid before a Brexit would have to be repaid.²²

The current UK government lowered the priority of climate change. This is a significant change from previous British governments and also gone back on what they had said in the 2105 Paris Agreement. The responsibilities of the "Department for Energy and Climate Change" have been shoved off to "Department for Business, Energy and Industrial Strategy", to indicate the supposed cross-cutting rather than stand-alone nature of energy and climate policy.

- **Product Regulation**

The EU regulates the safety and performance of products from the perspectives of taking into consideration various aspects like energy efficiency, hazardous substance content, etc, to keep a check on the environmental impact of the products. The EU has drafted a package of measures to improve resource efficiency and lessen the impact of products on the environment. The UK in this case can

²²Ibid.



choose to follow or not to follow these set standards. Any sort of deregulation or deviation from the existing EU law, by the UK government, would disrupt trade to the EU market and the same could result in increased compliance costs in duplicating product testing and certification efforts.

- **Great Repeal Bill**

The purpose of the Great Repeal Bill is to two fold; firstly, its purpose is to repeal the European Communities Act, which enabled UK to become a part of the EU in the first place. Secondly, this bill will incorporate EU laws into domestic laws, wherever deemed necessary and will consequently end the supremacy of EU laws in UK. A White Paper published on the 30th March 2017, states that following Brexit, the ‘whole body’ of EU environmental law will be carried over into UK law. So most of the EU directives will still remain in effect. While this is good news for the UK’s environment, some organisations are calling for further protection for our nature and species. It has been warned that while the Great Repeal Bill provides a step in the right direction on its own it is not enough. Environmental charities believe that the government should also commit to bringing over the precautionary principles that underpin our high environmental and wildlife standards.²³ Since most of these laws were enforceable by EU institutions, it will prove to be more beneficial if these laws are replaced after leaving the EU, and new domestic bodies that are dedicated to ensuring the laws and rules

that protect nature are upheld should be put in force.

VI. CONCLUSION: WHAT LIES AHEAD WITH THE ADVENT OF ONE BORIS JOHNSON?

With UK having officially left EU on 1st February, 2020, 4:30am IST, the biggest concern of all is that the Withdrawal Agreement Act²⁴ does not contain a non-regression clause, which means that the government can set weaker environmental regulations and standards than those currently imposed by EU law. Cherry on top – the act does however contain a clause that gives the power to UK ministers to further empower the UK Courts to overturn precedents set by the EU Courts.

The main points of difference between Theresa May’s Brexit plan and Boris Johnson’s are regarding the status of the Irish border, customs, citizen’s rights and transition period, and less to do with the specifics, much less environmental concerns.

The suggested 25 year plan and the adopted directives from the EU will not cut it and there is a major risk that the environmental standard of the EU will not be kept by the UK.

UK has not yet proposed any provision to enforce the proposed environmental regulations since the government cannot be taken to court; therefore their policies are all

²³What does leaving the EU mean for UK environmental legislation? Part 2 (12th April, 2020, 4:33PM), <http://www.em-solutions.co.uk/blog/what-does-leaving-the-eu-mean-for-uk-environmental-legislation-part-2/>.

²⁴The European Union (Withdrawal Agreement) Act 2020 is an Act of the Parliament of the United Kingdom that makes legal provision for ratifying the Brexit Withdrawal Agreement and implementing it into the domestic law of the United Kingdom; 2020 c.1



bark but no bite. UK needs a tough environmental watchdog, which if necessary can also be an attack dog.

UK should also work side by side with Wales, Scotland and Northern Ireland. If their demands regarding cross-border movement, farming policies and single market are ignored, it can prove to be disastrous. Many NGO's like Greener UK are still fighting tooth and nail for better and more secure environmental regulations to be employed in UK and both the houses of the Parliament are still considering ways to make that happen. UK needs to look at this not as an opportunity to get away with a slap on the wrists and to levy lineament environmental regulations but as an opportunity to work with EU towards better environmental standards.

