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## CLIMATE CHANGE IN THE BREXIT NEGOTIATIONS

### CROSSFIRE, CONTAGION AND COVID-19 RESPONSE

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The future relationship negotiations between the EU and UK is heading towards a crisis. The publication of the draft UK negotiating text and the **exchange of letters between lead negotiators David Frost and Michel Barnier** outlined the scale of the differences between the two sides. In particular **worrying signs are emerging on climate change** indicating serious tensions on this issue.

Given that the EU and UK lead the world on efforts to tackle climate change, what are the reasons behind this difficulty? Is climate being caught in the crossfire of broader political disagreements? Or is this a more serious contagion that could undermine future ambition?

**As the UK and Italy prepare to host the delayed COP26 next year, it is vital that Brexit negotiations don't disrupt the ability of Europe and the UK to work effectively on climate change.**

### Caught in the crossfire?

The big political fight in the negotiations is around the overall structure of the agreement. **The EU has proposed developing the future relationship** within an Association Agreement format, similar to the deal it has with Ukraine. This would consist of a single agreement that would cover both trade and non-trade issues



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under one governance mechanism. The EU envisions strong level-playing field provisions at the heart of the agreement, to ensure the UK doesn't seek to undercut standards, in return for good access to its markets. The agreement would also include diplomatic cooperation around major events, like the annual G7 meetings, including on climate change issues.

**The UK proposes an entirely different future relationship structure.** The UK model is to negotiate a 'vanilla' free trade agreement in the style of the EU-Canada or EU-Japan deals with minimal level playing field restrictions. In parallel the UK would then propose to have a series of bespoke arrangements for areas that don't fit neatly into the vanilla trade model, including on fisheries, organised crime, and energy. Each of these bespoke deals would have its own governance and enforcement mechanism, effectively de-linking any level playing field requirements between them and the main trade deal and minimizing the role of the Court of Justice of the European Union (CJEU).

The structure of the overall future relationship deal, and its implications for level playing field restrictions, is crucial. The differences between the EU and UK are substantive and will only be resolved at the highest political level. However, at the moment there is a risk that climate change gets caught in the crossfire of this disagreement. The EU is pushing to have as many climate elements as possible in the main trade deal as a way to solidify its Association Agreement structure and undermine the need to have a separate energy agreement as the UK wants. In response the UK is actively trying to remove any references to climate and the Paris Agreement to simplify the core trade deal, and then come back to these issues in a separate negotiation. This proxy war has the effect of destroying trust between the two sides, without really addressing the substance of what either wants from climate cooperation.

**Left unresolved this risks a fundamental division which could severely impact the ability of both sides to work together effectively in advance of COP26.**

## Win-win climate and energy cooperation

Climate being caught in the crossfire of the overall future relationship structure is doubly dangerous because, from their stated negotiating mandates, both sides share many of the same objectives. Both the EU and UK recognise the benefits from ensuring efficient trading across energy interconnectors. This helps manage the intermittency issues from variable renewable power sources such as offshore



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wind, decreasing the cost of decarbonisation, and facilitating major infrastructure projects such as the development of the North Seas Grid.

The EU and UK also both state that they would like to link the EU Emissions Trading Scheme (ETS) with a new UK scheme to maintain a common carbon price. This is a key level playing field requirement for the EU and has significant benefits for the UK to **ensure liquidity in a UK emissions allowances market** and facilitate a pathway towards net-zero.

The EU and UK have also both made statements on the need for diplomatic cooperation on climate issues at venues such as the UNFCCC, G7 and G20. Although the UK has stated that it would prefer a more informal arrangement whereas the EU would explicitly like this to be part of the main future relationship agreement.

However, although many of the high-level objectives have significant alignment the pathway to achieving this is far from automatic. The experience of linking the Swiss emissions trading system to the EU-ETS required years of negotiation to work through all the detail. It is therefore vital that substantive negotiations on these issues begin as soon as possible. This could be separated from the decision on the overall structure of the future relationship agreement. Under the principle that “nothing is agreed until everything is agreed” there is no reason not to proceed with working level negotiations to deal with the bulk of the issues. Once these individual elements were sufficiently developed negotiators could return to the question of how they fit into the overall architecture.

**Accelerating working level discussions on key areas for future climate change cooperation – ETS, diplomacy and ambition advocacy, and how each will manage preparing their new Nationally Determined Contributions (NDCs) – would help foster trust and prevent delay on areas of mutually desired cooperation that require detailed technical arrangements.**

## Contagion and the broader breakdown of trust

However, the risk of a breakdown between the EU and UK on climate cooperation is being driven by more than just the overall structure of the future relationship or their stated negotiating objectives. There is a risk of contagion into the UK’s and EU’s wider domestic climate change policy objectives as well as breakdown of UK and EU reputations and relationships on the global stage.



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Enhanced climate ambition will remain at the heart of the COP26 agenda, even with the impacts of COVID-19. The EU and UK are both considering new NDCs. The withdrawal of the UK from the EU effort sharing regulation makes increasing EU ambition more difficult. The UK, like other larger and richer countries, took on a more ambitious share of the EU target than the EU average. Privately several EU Member States and Parliamentarians have expressed concern that the UK's absence may limit the ability to agree an ambitious new target, especially the 55% reduction at the top end of the considered range.

So far, the EU has been silent on the possibility of formally requesting the UK to continue to participate in joint fulfilment of a new NDC. If the EU is confident that it can achieve a 55% target without the UK then it should continue with its current mandate. However, if there is any doubt it would be much better to make this a formal part of its mandate, and put a full proposition for effort sharing cooperation on the table sooner rather than later in the negotiations.

On the UK side the risks are even greater in relation to the potential pivot to prioritise a US trade deal over the EU negotiations. Talks between the UK and US have also recently resumed and there are worrying reports that the UK is preparing to compromise on **environmental standards for food and agriculture imports** in order to push forwards progress. This follows earlier concessions whereby the UK agreed not to mention the Paris Climate Change agreement at the behest of US negotiators. The UK faces a fundamental choice between pursuing a high standards future, which prioritises trade with countries like the EU and Japan who share these objectives; or pursuing a low standards race to the bottom under a deal with the Trump Administration. Given that ratification of any full US trade deal will not be possible before the Presidential elections in November, it would be prudent to pause discussions and wait to see whether a new President with stronger climate ambitions is elected.

The current UK government also made a **number of election commitments** to maintain and enhance climate and environment standards through its trade policy. To turn this into reality, and build trust with all future trading partners, it is now vital that the UK backs this up in domestic legislation. The UK trade bill, agriculture bill, environment bill and fisheries bill provide the opportunity to pass binding commitments to not regress on environment and climate standards, transparency rules to ensure open and fair scrutiny, and to rule out trade agreements that would undermine UK delivery of a net-zero trajectory.



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The UK negotiating position on climate also needs revision. The current texts limit climate change and references to the Paris Agreement **within the proposed energy agreement**. This ignores the role of climate within transport, industry, agriculture and the environment. The UK should revise its position to include a climate change chapter and direct reference to the Paris Agreement in its main free trade agreement proposal as well as the separate energy agreement.

**If both the EU and UK act in the coming weeks and months it will be possible to prevent the current difficulties in the future relationship negotiations spreading into a much deeper breakdown of trust and cooperation on climate change.**

## COVID-19 Response – extending talks and focusing on a green recovery

The timeline to negotiate and ratify a new future relationship agreement between the EU and UK was extremely challenging even before the impacts of COVID-19. Given the disruption this has created, both to the ability to negotiate and the level of attention that can be given by Heads of State and Ministers, completing a deal by the end of 2020 now looks close to impossible. Senior figures, such as the **managing director of the International Monetary fund**, are now publicly calling for an extension to the transition period to prevent a no deal outcome.

For the UK, COVID-19 has also delayed the development of critical new legislation and governance mechanisms. It will now be extremely challenging to have the Office for Environmental Protection (OEP), which is necessary to fill the environment and climate change governance gaps created by Brexit, up and running before the end of the year. It is also highly unlikely the UK will be able to create a new domestic emissions trading scheme by the end of 2020 in order to be able to link it to the EU ETS.

The UK continues to insist that **it will not ask for an extension** to the transition period. However, a no deal outcome would be **massively damaging to environment and climate issues**. The UK and EU will also need to resolve how to remove the UK from the current effort sharing regulation to minimise impact on overall climate ambition. COVID-19 has created an unprecedented set of circumstances. It would be far better to extend the talks for a year to ensure a



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successful conclusion and the time to put domestic governance in place, than to try and push ahead and create a further crisis.

As the UK and EU both look to ease lockdown restrictions in the coming months, attention is being focused on new stimulus packages to get the economy moving again. Ensuring that this facilitates a green recovery to build back better, rather than locking in high carbon infrastructure assets and business models, will be vital to the future of climate cooperation. There would be massive benefit to the EU and UK cooperating on green recovery. Further disruption to green supply chains or financial markets during this crucial period could make a bad situation even worse. It is critical that Brexit does not get in the way of effective cooperation.

**In response to COVID-19 the UK and EU should clarify their respective commitments to a green and resilient economic recovery. In light of the difficulties of fully implementing all the necessary arrangements by the end of 2020, the EU and UK should agree on an extension to the transition period. An extension would help ease the risks around no-deal Brexit contagion tainting wider areas of domestic climate and energy policy.**

## Immediate priority: COP26 diplomatic cooperation

COVID-19 has delayed the COP26 meeting, due to be held in Glasgow in November, until 2021. The UK and Italy jointly hold the COP26 Presidency, and the UK will also host the G7 summit in 2021, while Italy hosts the G20. This provides an unprecedented opportunity to coordinate climate diplomacy across the major international venues. However, without the EU and UK working effectively together it will not be possible to manage the major relationships with key countries such as China, the US, India and the coalitions of vulnerable nations.

The Brexit negotiations have already damaged trust. Fortunately, there are many opportunities that could be used to reset relations between the UK and the EU on climate cooperation.

**A joint statement could be agreed between the UK and Italy, and co-signed by the European President and other EU Heads of State**, reaffirming the desire to work together for a successful COP26 outcome. The statement could also detail high level climate objectives for the G7 and G20 agendas. This would build on previous shared commitments made by the UK and Italy (for example, following



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the **COP Bureau decision to postpone the summit**) to provide a clear signal to the rest of the world that, whatever their differences in the Brexit negotiating room, the UK and EU will not let this disrupt success next year.

Key opportunities to cooperate in delivering progress on climate action in the lead up to and at COP26 include:

- > Inspiring global commitment to green and resilient economic recovery. For example, building on their co-leadership of the Petersberg Climate Dialogue, the UK and Germany could accept Japan's invitation to co-develop an online platform where all countries could discuss how to formulate climate-positive COVID-19 recovery plans ahead of COP26.
- > Supporting climate vulnerable countries to build resilience to climate impacts which COP26 President Alok Sharma has identified as a key priority for the UK COP Presidency. The UK and EU could work together, building on their efforts with other nations to launch the Coronavirus Global Response Initiative, which **has so far raised €7.4 billion** to develop fast and equitable access to effective and affordable measures against the COVID-19 virus.
- > Driving a paradigm shift on sustainable finance. The alignment of private sector finance and Multilateral Development Bank (MDB) activity with the Paris goals are two other priority aims of the UK COP President. The EU will be a key ally in these efforts, building on the EU's sustainable finance taxonomy; and the European Investment Bank's (EIB) commitment to align its activities with the Paris Agreement. The MDB "Finance in Common" summit, due to take place during the Paris Peace Forum in November, will be a key opportunity to advance this agenda.

## Summary of actions

In summary the Brexit negotiations have exposed several tensions on climate cooperation between the EU and UK. To avoid further contagion, and potentially a severe breakdown in trust, urgent action is necessary. The following steps should be immediately considered:

1. The EU and UK should agree to extend the transition period in light of the COVID-19 impacts to allow more time for negotiation.
2. Climate and energy issues should be decoupled from negotiations on the overall structure of the future relationship. Under the principle that "nothing is agreed until everything is agreed" detailed working level negotiations should be accelerated.



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3. The EU should consider updating its negotiating mandate to include a clear offer on joint NDC fulfilment/effort sharing, to ensure it can achieve at least a 55% target for its new NDC in advance of COP26.
  4. The UK should announce a suspension of US trade talks until after the elections in November. The UK should urgently implement domestic legislation to provide legally binding commitments on non-regression, transparency and governance.
  5. The EU and UK should make clear that future trading relationship agreement will not impinge on the economic recovery.
  6. As co-presidents of COP26, the UK and Italy should lead the development of a joint statement on climate cooperation between the UK and EU. This would set the foundations for the UK, EU and its Member States to cooperate on climate action in the run-up to COP26, including cooperation on green recovery measures in response to COVID-19, improving the resilience of climate vulnerable countries, and aligning public and private finance to the Paris Agreement.