

# Environment

## Brexit Monitoring Report

10 November 2018 – 30 January 2019



The Assembly and

**BREXIT**

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National Assembly for Wales

**Senedd Research**

# Environment

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10 November 2018 – 30 January 2019

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### Paper Overview:

Brexit will bring significant changes in the environmental policy area. Senedd Research has prepared this monitoring report for the Assembly's Climate Change, Environment and Rural Affairs Committee. It provides an update on recent Brexit developments that are of importance to environmental policy in Wales.



The Assembly and

**BREXIT**

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## 1. Introduction

This report provides an update on recent developments relating to Brexit in the environmental policy area. It has been prepared by Senedd Research for the Assembly's **Climate Change, Environment and Rural Affairs (CCERA) Committee** and covers the time period running from 10 November 2018 to 30 January 2019. The **previous report** covers 15 September to 9 November 2018.

This document provides an overview of UK-EU negotiations and developments within the UK that impact on the environmental policy area. It focuses on the activities of:

- The EU institutions;
- The governments and legislatures within the UK; and
- Provides other key sources of information.

For a full overview on the negotiations relating the UK's withdrawal from the EU, see Senedd Research's general **Brexit Monitoring Reports and Brexit Updates** that are prepared for the Assembly's **External Affairs and Additional Legislation (EAAL) Committee**. Information can also be found on the **Assembly and Brexit** webpages.

## 2. UK EU negotiations

On 14 November the UK Government and the European Commission reached agreement on a **Draft Withdrawal Agreement**. Subsequently, the Prime Minister, Theresa May, announced that the UK Cabinet had agreed the draft and the accompanying Outline Political Declaration on the future relationship between the UK and EU.

On 25 November the **Draft Withdrawal Agreement and Outline Political Declaration** were endorsed by leaders of the EU-27 at a special summit of the European Council. Further information on the Draft Withdrawal Agreement and Outline Political Declaration can be found in Senedd Research's **Brexit Negotiations Monitoring Report** published on 19 December.

The Draft Withdrawal Agreement includes the 'backstop' - an agreement to ensure no hard border between Northern Ireland and the Republic of Ireland. This would establish a Single Customs Territory between the UK and EU if no new trade deal is agreed before the end of the transition period set out in the Draft Withdrawal Agreement, and if the UK opts not to extend the transition period by 1 July 2020. It would also align Northern Ireland much more closely to EU regulations.

On 19 December the European Commission published a **no-deal contingency action plan** for certain sectors, including customs and the export of goods and climate policy.

On 15 January the '**Meaningful Vote**' on the Draft Withdrawal Agreement took place in the House of Commons. The UK Government was defeated with MPs voting 432 to 202 against the Draft Withdrawal Agreement.

Following the UK Government's defeat, the European Commission President Jean-Claude Juncker, made a **statement on the Meaningful Vote defeat**. First Vice-President, Frans Timmermans, and Chief Negotiator, Michel Barnier, **spoke in the European Parliament**. The political events that followed are discussed in Senedd Research's 22 January **Brexit Negotiations Monitoring Report**.

On 29 January the Prime Minister made a **statement in the House of Commons, followed by a debate**. The House voted on the motion: 'rejects the United Kingdom leaving the European Union without a Withdrawal Agreement and a Framework for the Future Relationship, and requires the Northern Ireland backstop to be replaced with alternative arrangements to avoid a hard border; supports leaving the European Union with a deal and would therefore support the Withdrawal Agreement subject to this change'. The Prime Minister said the UK Government will 'seek to obtain legally binding changes to the Withdrawal Agreement that deal with concerns on the backstop while guaranteeing no return to a hard border between Northern Ireland and Ireland'.

On 30 January, in the European Parliament, **President Juncker and Michel Barnier spoke about the Commons vote**, saying 'the backstop is part and parcel of the Withdrawal Agreement and it will not be renegotiated'; recalled that the EU27 governments and the UK Government agreed the Withdrawal Agreement (including the backstop) in November; and finished saying that 'the EU is ready ... to be more ambitious and to rework the nature and intensity of our future economic relationship'.

### Agriculture and food

The Draft Withdrawal Agreement has the following implications for agriculture and food:

- The UK would leave the Common Agricultural Policy.
- The UK could request an extension to the transition period.
- During the transition period the UK could 'take steps to prepare and establish new international arrangements of its own'. However, any implementation of such deals could only start after the transition period ends, unless the EU agrees otherwise.
- The Political Declaration set out that both parties should aim to secure a far-reaching free trade agreement that maintains a 'level playing field' covering a range of areas including environmental standards and climate change.

- Should the backstop be activated, there would be no new checks or controls on goods crossing the border between Northern Ireland and the Republic of Ireland, however there will be checks on goods coming from the rest of the UK to Northern Ireland.
- The Draft Withdrawal Agreement set out that Welsh food and drink products protected by **Geographical Indications** would automatically obtain both equivalent protection within the UK and maintain the existing protection in the EU.

## Energy and climate change

The Political Declaration states that the UK and EU should consider co-operating on carbon pricing by linking a UK national greenhouse gas emissions trading system with the EU's emissions trading systems. On climate change, the Political Declaration states that the future relationship should reaffirm the commitments that the EU and the UK have made to international climate change pledges such as the Paris Agreement.

In November and December the European Commission issued further **Brexit preparedness notices**:

- **[Automotive CO2 emissions \(PDF 129KB\)](#)**
- **[CO2 emissions reporting in maritime transport \(PDF 232KB\)](#)**
- **[Emissions trading system \(PDF 157KB\)](#)**

## Fisheries

For fisheries, the Draft Withdrawal Agreement states that fishery and aquaculture products will not be covered by any temporary customs arrangement following the transition period 'unless an agreement on access to waters and fishing opportunities is applicable'. Arrangements on fisheries will be negotiated as part of the overall future partnership, with the two sides aiming to reach a deal by 1 July 2020.

## Nature Conservation

The backstop would commit the UK to maintain environmental standards at the same level as EU regulations and processes - as they stand at the end of the transition period.

If the backstop is activated, the UK would be required to implement a 'transparent system' for the effective domestic monitoring, reporting, oversight and enforcement of its obligations under the withdrawal deal 'by an independent and adequately resourced body or bodies', under the draft text.

It has been noted in **ENDS Report** (article behind paywall) that the agreement failed to mention sanitary and phytosanitary products, 'leaving open the possibility that the UK could lower food standards if the backstop comes into force'.

### 3. Other UK Government action

#### Agriculture and food

On 5 December the UK Government announced a **[new agreement to export British sheep meat to India](#)**.

On 18 December, the UK Government announced more than **[£2 billion in additional funding across government departments for 2019-20 to prepare for a no-deal scenario](#)**. This includes £410 million for the Department for Environment, Food and Rural Affairs (Defra) to ensure 'uninterrupted trade' in agri-food and fisheries products, and £375 million for HM Revenue and Customs to employ additional staff for increased customs activity. The Barnett consequential to the Welsh Government resulting from this spending is £31 million.

On 19 December the UK Government published updated four no-deal notices relating to the food sector:

- **[Producing and labelling food if there's no Brexit deal](#)**;
- **[Producing and processing organic food if there's no Brexit deal](#)**;
- **[Protecting geographical food and drink names if there's no Brexit deal](#)**; and
- **[Importing high-risk food and animal feed if there's no Brexit deal](#)**.

On 21 December the UK Government issued an **[update on its preparations for a no-deal scenario](#)**.

On 21 December the UK Government announced the **[panel members for an independent review of 'fair funding' for farmers](#)** in England, Scotland, Wales and Northern Ireland up to 2022. The panel will look at which factors should determine how agriculture funding is allocated across the four countries.

On 3 January the Secretary of State for Environment, Food and Rural Affairs, Michael Gove, gave a **[speech at the annual Oxford Farming Conference](#)** in which he highlighted development of a new UK Government food strategy. In terms of the implications of no-deal Brexit he said 'it's a grim but inescapable fact that ... the effective tariffs on beef and sheep meat would be above 40% - in some cases well above that'.

#### Environmental governance and principles

On 19 December the UK Government published its **[Draft Environment \(Principles and Governance\) Bill 2018](#)**. The Bill aims to address the environmental governance gap following Brexit

Aspects of the draft Bill apply to Wales including proposals for environmental principles and an Office for Environmental Protection, but only in relation to reserved matters. The scope of the draft Bill could be extended to cover devolved areas if the Welsh Government chooses to adopt a joint approach with the UK Government. The UK Government is expected to lay its Environment Bill in September 2019. Senedd Research has published a **[blog post on the draft Bill](#)**.

#### Fisheries

On 10 January the UK Government issued a **[press release encouraging the fishing industry to start preparing for the introduction of catch certificates in the event of a no-deal Brexit](#)**. Catch certificates indicate that fish have been caught in line with established conservation and management measures. All non-EU countries are required to present catch certificates when trading with the EU.

#### Nature conservation

On 21 January the Prime Minister told the House of Commons in a statement on **[Leaving the European Union](#)**, that the terms of the Draft Withdrawal Agreement would allow the UK to 'lead the way around the world' on environmental standards.

#### Waste

On 21 December the UK Government published **[guidance for businesses](#)** shipping waste into and out of the EU in the event of a no-deal Brexit scenario.

UK Government officials have reportedly **[reassured companies](#)** (article behind paywall) that EU competent authorities would allow current notifications of waste shipments to roll over after Brexit, but concerns remain that blockages at ports could cause temporary disruptions. ENDS report has said that it understands that some companies may be preparing to dispose of refuse-derived fuel at landfill sites if they face delays. The UK currently sends 3.6 million tonnes of waste to other EU countries, with sector representatives warning no deal could lead to serious disruption.

## Environmental permitting

**The Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2018** is one of a large number of Statutory Instruments (SIs) currently being considered at a UK level. The regulations remove references to EU law and institutions in the environmental permitting regulations, change how the **Industrial Emissions Directive** is implemented to preserve current best available technology reference documents (BREFs) without accepting future ones drawn up by the EU, and remove a reference to renewable energy guarantees of origin to reflect the UK's departure.

ENDS Report published an **article on the amendments** (article behind paywall), which said that they contain radical changes for the way that the Industrial Emissions Directive is implemented in England and Wales. However, the House of Commons European Statutory Instruments Committee (the sifting Committee) agreed with the UK Government that this SI did not need to be debated in the UK Parliament.

## 4. Welsh Government action

### Agriculture and food

On 26 November, at the Winter Fair, the then Cabinet Secretary for Energy Planning and Rural Affairs, Lesley Griffiths (now Minister for Environment, Energy and Rural Affairs), announced that **the Basic Payment Scheme will remain unchanged in 2020** 'providing farmers with some certainty in an uncertain time'. She **reiterated this position** in the Assembly on 28 November. This is a year's extension to her **previous intention** that the 2019 scheme year would be the last year that the Basic Payment Scheme would operate.

On 10 December Lesley Griffiths, announced **£80 million to 'support to farmers facing the considerable challenges of Brexit'**. The funding is allocated to Glastir, the Sustainable Production Grant and the Farm Business Grant.

On 9 January the Welsh Government launched a **consultation on updating Welsh food law in preparation for Brexit**. The consultation gathers views on changes needed to Welsh SIs derived from EU law to ensure they remain effective in a no-deal Brexit scenario. The SIs in question relate to food marketing standards, labelling and school milk. The consultation closed on 7 February.

On 22 January Lesley Griffiths made a statement to the Assembly on the **implications of a no-deal Brexit for the environment, agriculture and fisheries**. The statement discussed issues including:

- Transferring EU legislation into domestic legislation;
- Trade in red meat and shellfish with the EU;
- Chemical imports from the EU;
- Access to EU labour supply for the food processing sector;
- Replacing EU approval and certification systems;
- Potential border checks for products of animal origin and live animals; and
- Launch of a Welsh Government website - **Preparing Wales** - to provide advice and information on preparing for a no-deal Brexit.

## Nature Conservation

On 27 November the Welsh Government set out its specific concerns in its **assessment of the Draft Withdrawal Agreement** (the same concerns had been outlined by the then First Minister, Carwyn Jones, in a **statement to the Assembly** on 20 November). While the Draft Withdrawal Agreement includes a commitment that both the UK and EU will prevent any reduction in the levels of environmental protections as they stand, the Welsh Government ‘believes strongly’ that the UK should commit to ‘a dynamic relationship rather than simply non-regression’. More detail can be found in a **Senedd Research blog post**.

## Fisheries

On 15 November 2018 the Welsh Government laid a **Legislative Consent Memorandum (LCM)** on the **UK Fisheries Bill**. The LCM outlines the provisions in the Bill for which consent is required. The majority of the Clauses in the Bill relate to Wales. The Bill, if enacted, would create the primary legislative elements of the UK Framework for fisheries management and support post-Brexit.

On 10 January the Welsh Government published a **supplementary LCM** on the Bill. This refers to the amendments to the Bill made at House of Commons Public Bill Committee stage, and the subsequent new Clause 39 which extends the legislative competence of the Assembly beyond 12 nautical miles.

The first LCM stated that the Welsh Government is not content with the drafting of Clause 18 (which gives the Secretary of State powers to set catch and effort quotas). The supplementary LCM says that the UK Government is of the view that Clause 18 relates to international obligations that are reserved functions, and as such a consent is not required. The LCM says:

...the implementation of international agreements in areas of devolved competence is not reserved, and falls within the Legislative Competence of the National Assembly for Wales [...] As the term ‘International Obligations’ (used in the Bill) is broad and may cover the implementation of such an agreement, the Clause does impact on devolved competence and as such Assembly consent is required.

In her **letter to the CCERA Committee accompanying the supplementary LCM**, Lesley Griffiths says she expects to lay a further supplementary LCM following further discussions with the UK Government.

The Assembly’s reporting deadline for the LCM is 12 February. Full details of the UK Fisheries Bill are covered in this **Senedd Research Bill Summary**.

On 11 January Lesley Griffiths **urged the fishing industry to start preparing for a no-deal Brexit**, promoting a number of Welsh Government Brexit and fisheries roadshow events.

On 14 January, ahead of a meeting with counterparts in Westminster, Lesley Griffiths warned that **‘leaving the EU without a deal could ‘decimate’ the Welsh farming and fishing industries**. She highlighted that ‘90% of shellfish exports’ go to the EU, and that ‘the prospect of high tariffs in the event of a no-deal Brexit will only add to the cost of exporting.’

## Animal welfare

On 13 November Lesley Griffiths made a statement in the Assembly on **animal welfare**. She said it was ‘vital we maintain our standards and expectations’ and that the Welsh Government ‘will not compromise on animal welfare’ after Brexit.

## UK common frameworks

On 13 November the then Cabinet Secretary for Finance, Mark Drakeford, made a statement on **The European Union (Withdrawal) Act and common frameworks**. He said UK Government has concluded that it does not need to bring forward any EU Withdrawal Act regulations to ‘freeze’ the Assembly’s and Welsh Ministers’ powers for the purpose of legislating for UK frameworks at this time. The Welsh Government continues to commit to not diverging in ways that would cut across potential future frameworks.

## Statutory Instruments

The Welsh Government has started to lay SIs made under the *European Union (Withdrawal) Act 2018* for sifting by the Assembly’s Constitutional and Legislative Affairs (CLA) Committee. The Committee’s website lists the **SIs laid to date**; many of which are in the environmental policy area. Around **50 Welsh Government SIs are expected**.



Assembly Standing Orders require that the Welsh Government must lay a **written statement** notifying the Assembly of regulations made in devolved areas by the UK Ministers under the EU Withdrawal Act. Where the regulations amend primary legislation, the Welsh Government must also lay a **Statutory Instrument Consent Memorandum (SICM)**.

## 5. Scottish Government action

### Agriculture and Food

On 10 January the Cabinet Secretary for the Rural Economy, Fergus Ewing **reiterated the Scottish Government's commitment** to maintaining EU Less Favoured Area Scheme (LFASS) funding at least at 80 per cent for 2020.

On 16 January, Fergus Ewing **wrote to Michael Gove** on tariffs for agri-food imports into the UK. In the letter, he put forward a proposal for the targeted use of tariff rate quotas.

### Fisheries

On 4 December Fergus Ewing **wrote to the UK Government** requesting amendments to the UK Fisheries Bill regarding quota and effort limits, seafood levies, funding for coastal communities and other matters.

On 7 December the Scottish Government laid a **LCM on the UK Fisheries Bill** before the Scottish Parliament. Although the Scottish Government agrees that legislative consent is required, it argues that further consent is needed in relation to certain clauses, and as such is **not in a position to recommend consent to the Bill**.

## 6. CCERA Committee action

### Agriculture and food

On 14 November the Committee held a **stakeholder evidence session on the UK Agriculture Bill** as part of its consideration of the LCM for the Bill. The Committee heard representatives from the agricultural sector question the need for, and the appropriateness of using, the Bill and the delegated powers included in Schedule 3 to the Bill, which they said would introduce what could effectively be a new agricultural policy for Wales. Reasons given included:

- The Assembly would have limited opportunity to scrutinise or influence the Bill and future policy;
- Schemes are yet to be developed and there has been little cost or impact assessment; and
- The Bill was introduced when the Welsh Government was still consulting on proposals for a new agricultural policy and future payment schemes.

On 21 November Lesley Griffiths **wrote to the Committee** regarding the Bill. She stated that she is having positive discussions with Michael Gove, around the World Trade Organisation (WTO) provisions within the Bill and the extent to which they are reserved (see **Senedd Research blog post on the Bill** for background).

She went on to say that finding a solution to the constitutional disagreement on the WTO provisions may not require an amendment to the Bill, and that it could be possible for the UK and Welsh Governments to find a solution through an agreement between governments regarding how the existing provisions in the Bill should operate.

Lesley Griffiths said she was hopeful that an agreement can be reached, and that she will be able to recommend that the Assembly gives legislative consent to the Bill in due course. She later provided the Committee with **further correspondence from Michael Gove** (dated 10 December) on how the Welsh Government and UK Government would work together on the WTO clause.

On 6 December, the Committee held an **evidence session with Lesley Griffiths** on the UK Agriculture Bill. When asked whether she was confident that the Welsh Government and the agricultural sector would be ready to begin transition to the post-Brexit land management scheme in 2020-21, Lesley Griffiths' official said:

...there won't be significant change in 2020. The change in 2021 would be gradual, relatively small scale. So, the things that people would need to adapt to early are likely to be relatively few, and the change increases over the following year. So, I think, thinking of 2020-21 as a sort of cliffedge, single change moment isn't the right way to approach it. This is the beginning of a transition period.

Lesley Griffiths acknowledged that the potential differences in the rate of transition in Wales and England could have implications for cross-border farms and the UK internal market. Her official explained that these matters could be managed through the UK common framework for agriculture.

On 4 January the Committee published its **report on the LCM on the UK Agriculture Bill**. The Committee recommends that the Assembly gives consent to the provisions in the Bill, subject to wide ranging conditions including that that Welsh Government should seek amendments to the Bill and should give various commitments to the Assembly (see the report for details of these conditions).

If the conditions cannot be satisfied, the Committee recommends that the Assembly's consent should be limited to the parts of the Bill that enable the immediate continuation of financial support after Brexit, until such time that a Welsh Agriculture Bill can be brought forward.

### Environmental governance and principles

On 10 January the Committee **wrote to Lesley Griffiths** on the UK Government's Draft Environment (Principles and Governance) Bill. The letter asked her to set out the Welsh Government's approach to environmental governance and principles in Wales.

### Fisheries

The Committee is undertaking an **inquiry into Welsh Government's LCM on the UK Fisheries Bill**. On 13 December the Committee launched a **consultation to seek stakeholder views on the Bill**, to inform the Committee's consideration of the LCM. The consultation closed on the 9 January.

On 16 January the Committee held an **evidence session on the LCM**, hearing from academics, fisheries industry representatives, and environmental NGOs.

On 24 January the Committee held a [session with Lesley Griffiths on the LCM](#). The Committee asked about the development of the Bill, the appropriateness of including the provisions relating devolved areas in a UK Bill and funding arrangements after 2020. Lesley Griffiths was also asked to clarify the position of the [upcoming Brexit and our Seas consultation](#). She confirmed the consultation would cover both marine and fisheries policy, and would probably be launched in March.

### Nature conservation

On 16 December the Committee launched an inquiry entitled [Biodiversity - The Public Goods Scheme](#). The Public Goods Scheme is one of the two strands of the Welsh Government's proposed post-Brexit land management scheme set out in its [Brexit and our Land consultation](#). The Committee's [consultation](#) closed on 18 January.

## 7. Other National Assembly action

### Agriculture and food

On 26 November, during a [scrutiny session](#) with the EAAL Committee, the First Minister, Mark Drakeford stated that the Welsh Government intends to bring forward a Welsh Agriculture Bill. He said:

We will not be without a legislative framework that will allow us to design a system of support for agriculture in Wales... we've secured the immediate future through the UK Agriculture Bill, and the inter-governmental agreement has been very important in shaping those discussions. Nevertheless, for the longer term... an agriculture Bill brought forward by Welsh Ministers and shaped and debated on the floor of the National Assembly will be needed.

On 29 November the EAAL Committee published [its report on the implications of the Draft Withdrawal Agreement for Wales](#). Section 3 of the report discusses agriculture, food and fisheries.

On 11 December Lesley Griffiths answered [questions in the Assembly](#) regarding the Common Agricultural Policy, the Basic Payment Scheme and the Welsh Government's [Brexit and our land consultation](#).

On 10 December the EAAL Committee published its [report on the preparedness of the Welsh food and drink sector for Brexit](#) (PDF 185KB). The Committee made three recommendations in the areas of post-Brexit food strategy, Geographical Indications (i.e. protected food names) and mitigating the effects of a no-deal Brexit on food supplies. The Welsh Government replied on 22 January [accepting the Committee's recommendations](#) (PDF 214KB).

On 29 January the Assembly [debated this and other EAAL Committee reports on Brexit preparedness](#). Senedd Research [published a blog post](#) ahead of the debate.

On 4 January the CLA Committee [published its report](#) on the UK Agriculture Bill LCM. The Committee states that it is concerned that the Welsh Government did not introduce its own Bill for scrutiny in the Assembly. It states that, until a response is received from the Welsh Government, it is not in a position to formulate a view as to whether the Assembly should provide its consent to the clauses of the Bill referred to in the LCM.

## Fisheries

On 21 January the CLA Committee took **evidence on the Welsh Government's LCM on the UK Fisheries Bill from Lesley Griffiths**. The Committee explored the appropriateness of the provisions in the Bill, including the delegated and regulation making powers and the rationale for the Secretary of State to be able to act in devolved areas.

## Animal welfare

On 21 November the CLA Committee considered the **Animal Health and Welfare (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 during its sifting of Brexit SIs**. These amendments, in the view of the Welsh Government, are to ensure that the statute book remains operable following Brexit.

The Committee held the view that it is possible that the regulations go further than just addressing EU retained law. For that reason, Members recommended that the Welsh Government uplift the regulations to the affirmative procedure, rather than the negative procedure as proposed. This is the first and only SI to be uplifted to the affirmative procedure during the sifting process (at the time of writing).

## 8. Other UK legislature action

### Air quality

On 22 November the UK Government published the **Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2018**. The regulations amend existing domestic legislation, which enacts components of the Ambient Air Quality Directive and the National Emissions Ceiling Directive as well as other pieces of EU legislation, to ensure it remains effective after Brexit. The regulations were laid before the UK Parliament on 21 January under the negative procedure.

### Agriculture and food

The UK Agriculture Bill completed its stage with the House of Commons Public Bill Committee in November and the **amended Bill has been published**. One amendment adds provisions on the red meat levy to the Bill (new Part 8). **The amendment was tabled** by the Minister of Agriculture, Fisheries and Food, George Eustice, along with two Members of the Public Bill Committee. This follows Lesley Griffiths' request to see powers relating to the **redistribution of the red meat levy** included on the face of the Bill.

The Welsh Schedule of the Bill (Schedule 3) has been amended in the Public Bill Committee stage to include a new power to provide for the continuation of the Basic Payment Scheme beyond 2020 (new Paragraph 8, Part 2). **The amendment was tabled** by George Eustice on 13 November and **was discussed by the Public Bill Committee on 15 November**. The amendment mirrors an amendment in the equivalent English Schedule.

On 14 November the House of Commons Public Accounts Committee published its report on **Defra's progress towards Brexit**.

On 27 November the House of Commons Environment, Food and Rural Affairs (EFRA) Committee published **its report on scrutiny of the Agriculture Bill** (PDF 466KB).

On 28 November the House of Commons EFRA Committee **held an oral evidence session** with Michael Gove.

On 20 December the House of Lords held a debate titled **Brexit: Healthy and Nutritious Food**.

On 9 January the House of Commons EFRA Committee **took oral evidence as part of its inquiry on Brand Britain: Promoting and Marketing British Food and Drink.**

On 12 November the Scottish Parliament Rural Economy and Connectivity Committee published its report on the **LCM on the UK Agriculture Bill.**

On 4 December the Scottish Parliament **Environment, Climate Change and Land Reform Committee took evidence** on Brexit and the environment from the Cabinet Secretary for Environment, Climate Change and Land Reform, Roseanna Cunningham and the Cabinet Secretary for the Rural Economy, Fergus Ewing.

On 10 January the Scottish Parliament **held a debate on future rural policy and support after Brexit.**

## Energy and Climate Change

On 4 December, the Minister for Energy and Clean Growth, Claire Perry, wrote to the House of Lords EU Energy and Environment Sub-Committee to **answer questions from the Committee regarding the EU Emissions Trading System, Internal Energy Market, energy research and statutory instruments** (PDF 336KB) after Brexit. On 19 December, Chair of the Committee, Lord Teverson, **responded to the Minister** (PDF 248KB).

## Fisheries

On 15 November the House of Lords Delegated Powers and Regulatory Reform Committee published its report on the **Fisheries Bill [et al].**

On 21 November the UK Fisheries Bill received its **Second Reading** in the House of Commons. The Bill supports the process of moving away from the EU **Common Fisheries Policy (CFP)** and provides the legal framework for the UK to manage its own waters, as an independent coastal state under the **United Nations Convention on the Law of the Sea (UNCLOS).**

Michael Gove stated that the legislation will see powers moving to the Devolved Administrations, saying that 'it will be a diffusion of power and a strengthening of devolution'.

Between 4 and 17 December the Bill was considered by the House of Commons **Public Bill Committee.** In a letter to the Public Bill Committee, dated **5 December,** George Eustice informed the Committee of a number of amendments to the Bill tabled by the UK Government.

One such amendment is a new Clause to amend the *Government of Wales Act 2006* to extend the legislative competence of the Assembly in relation to fishing, fisheries and fish health in the offshore zone. The letter explains that:

The Welsh Assembly does not have legislative competence for sea fisheries in the offshore zone, which is the area of sea outside the territorial seas but within the Exclusive Economic Zone – although the Welsh Government do have executive competence in the offshore zone as these have been devolved previously.

The letter notes that the amendment, if passed, would bring the Assembly's legislative competence into line with that of the Scottish Parliament and Northern Ireland Assembly, which already have competence for fisheries in their offshore and inshore areas.

On 13 December the House of Commons Northern Ireland Affairs Committee published its **Brexit and Northern Ireland: fisheries: Government Response to the Committee's Fourth Report.**

On 18 December **the Bill, as amended at Public Bill Committee stage,** was published.

On 20 January the House of Commons EFRA Committee published a report entitled **Beyond the Common Fisheries Policy: Scrutiny of the Fisheries Bill.** The report was the culmination of its inquiry into the proposed scope, provisions and powers in the Bill.

On 13 December the House of Commons Northern Ireland Affairs Committee wrote to Michael Gove **seeking more detail on the UK Government's strategy for Northern Ireland's fisheries post-Brexit.** The Committee recommended that the UK Government must be prepared to take decisions on fisheries policy for Northern Ireland post-Brexit if there is no Northern Ireland Executive in place to do so.

On 9 January the House of Commons Scottish Affairs Committee held a **one-off hearing** to examine the **implications of the UK Fisheries Bill for Scotland,** including issues such as quotas for fishing vessels, access to Scottish waters and environmental sustainability. The Committee heard from representatives of Scottish fishermen, seafood producers and processors, and an environmental NGO, before questioning the UK and Scottish fisheries Ministers (George Eustice and Fergus Ewing respectively).

On 11 December, **the Scottish Parliament held a debate on fisheries negotiations.**

On 16 January the Scottish Parliament Delegated Powers and Law Reform Committee published its report on the **LCM on the UK Fisheries Bill**.

## Animal welfare

On 29 November the House of Commons **held a debate on Trade Agreements: Environmental and Animal Welfare**. The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs, David Rutley said ‘we will not water down our standards on food safety, animal welfare and environmental protection as part of any future trade deals’.

## UK common frameworks

The House of Commons Scottish Affairs Committee is undertaking an inquiry into the **relationship between the Scottish and UK Governments**. Its terms of reference cover the effectiveness of intergovernmental machinery such as the Joint Ministerial Committee, whether Brexit might necessitate changes to this particularly around common UK frameworks, and whether lessons can be learned from other countries.

## 9. Other action

### Agriculture and food

On 28 January the Chief Executives of a number of major food retailers wrote to MPs to **express their concerns about a no-deal Brexit** (PDF 213 KB). The letter states that a no-deal Brexit will likely increase food prices and reduce the range and quality of products available to consumers.

### Energy and climate change

The UK Government’s **preparation notice** states that it would maintain a price on carbon emissions at roughly the current level of the EU’s emissions trading scheme through a carbon tax of £16 a tonne, a move **broadly welcomed** (article behind paywall) by climate campaigners and industry.

The EU has moved to ensure the stability of its emissions trading scheme by **suspending the UK** from participating in permit auctions and free allocations of emissions allowances. ENDS report has said that one market analyst told **Reuters** that EU carbon prices could fall in the short term ‘as UK installations could be expected to offload their surplus allowances and unwind hedges’. Energy sector groups have remained relatively sanguine about the impact of no deal.

## 10. Other key sources

### Air quality

House of Commons Library, [Air Quality: Cutting through the haze](#), November 2018

### Agriculture and food

Senedd Research, [Outcomes-based land management schemes: a case study analysis](#), November 2018

Senedd Research, [Preparing for Brexit](#), January 2019

Senedd Research, [What are the World Trade Organisation rules around agriculture?](#), January 2019.

Scottish Parliament Information Centre (SPICe), [Land use policy and public goods](#), November 2018

Centre for Welsh Politics and Society, [Rural Policy in Wales after Brexit](#), November 2018

Institute for European and Environmental Policy, [Institute Emerging agricultural policy frameworks in the UK](#), November 2018

The UK in a Changing Union, [Taking the bull by the horns? progress of the UK Agriculture Bill](#), December 2018

NFU, [Joint letter from the Presidents of the UK Farming Unions on the prospect of a 'No Deal' Brexit](#), January 2019

NFU Cymru, [Brexit Update](#), January 2019

### Energy and climate change

House of Commons Library, [Brexit: energy and climate change](#), November 2018

SPICe, [Climate Change and Agriculture: How can Scottish Agriculture Contribute to Climate Change Targets?](#), November 2018

Institute of Welsh Affairs, [Re-energising Wales: A Framework for Action: Next steps for Regulatory and Policy Powers over Energy in Wales](#), November 2018

## Environmental governance and principles

Senedd Research, [Environmental principles and governance post-Brexit: the draft UK Bill and Wales](#), January 2019

Parliamentary Office of Science and Technology (POST), [EU Environmental Principles](#), November 2018

Green Alliance, [The government's guessing game on future environmental governance](#), November 2018

Brexit and Environment academic network, [The Environment \(Principles and Governance\) Bill: An overview and four unanswered questions](#), December 2018

Green Alliance, [The Environment Bill: strong ambitions, but the get out clauses need to go](#), December 2018

University College London, [The New Office for Environmental Protection: Scrutinising and Enforcing Environmental Law after Brexit](#), January 2019

### Fisheries

Senedd Research, [The UK Fisheries Bill and Wales](#), November 2018.

House of Commons Library, [UK Fisheries Bill 2017-2019](#), December 2018

House of Commons Library, [Fisheries Management in the UK](#), December 2018

House of Commons Library, [Fisheries: Brexit Negotiations](#), December 2018

SPICe, [UK Fisheries Bill](#), December 2018

SPICe, [Preparing for a no-deal Brexit: Commercial fishing](#), November 2018

SPICe, [How are fishing quotas set? Stage 2: coastal state negotiations](#), December 2018

SPICe, [How are fishing quotas set? Stage 3: The EU December Council](#), January 2019

Welsh Government, [Fisheries and Brexit bulletin](#), January 2019

Wales Environment Link, [WEL Briefing on UK Fisheries Bill](#), November 2018

Brexit and the Environment academic network, **The Fisheries Bill: What does it tell us about post-Brexit fisheries policy?**, November 2018

National Federation of Fisherman's Organisations, **Fishing Centre Stage**, December 2018

National Federation of Fisherman's Organisations, **Withdrawal Agreement**, December 2018

National Federation of Fisherman's Organisations, **Fisheries Bill**, January 2019

Wales Environment Link and Greener UK, **LCM on UK Fisheries Bill**, January 2019

## Waste

Brexit and Environment academic network, **Is Defra's Waste Strategy Brexit-proof?**, January 2019

## UK commons frameworks

Brexit and Environment academic network, **The Supreme Court's decision on the Scottish Continuity Bill: Implications for environmental governance**, December 2018

## Other

Senedd Research, **What does the Brexit political declaration mean for Wales?**, November 2018

Senedd Research, **What does the EU Withdrawal Agreement mean for Wales?**, November 2018.

Senedd Research, **100 days to Brexit**, December 2018

Senedd Research, **Preparations for a 'no deal' Brexit: The latest position**, January 2019

House of Commons Library, **Brexit and chemicals regulation (REACH)**, November 2018

SPICe, **Preparing for a no-deal Brexit: Chemicals and REACH regulations**, November 2018

Northern Ireland Assembly Research and Information Service, **Brexit and Northern Ireland: A reading list** (PDF,2.37KB), January 2019

UK Government (Defra), **Measuring environmental change - draft indicators framework for the 25 Year Environment Plan: Draft for discussion**, December 2018

Friends of the Earth, **Take no-deal Brexit off the table for the environment's sake**, January 2019

Friends of the Earth, **Why a no-deal Brexit is no good for the environment**, January 2019

Greener UK, **Parliamentary briefing ahead of the 'meaningful vote': analysis based on green benchmarks for Brexit (updated Jan 2019)**, January 2019

Brexit and Environment academic network, **The environment in the Brexit deal: A brief guide**, January 2019

Royal Town Planning Institute, **Environmental planning after Brexit**, January 2019

Environmental Politics, **Is the trajectory of European Union environmental policy less certain?**, January 2019

Environmental Politics, **De-Europeanising or disengaging? EU environmental policy and Brexit**, January 2019

RSPB, **Why a 'no deal' Brexit increases risks to the environment**, January 2019

Journal of European Public Policy, **EU environmental policy in times of crisis**, January 2019

Friends of the Earth, **Are we on track for a green Brexit?**, December 2018

Brexit and Environment academic network, **May survives confidence vote: Where now for the environment?**, December 2018

Institute for European and Environmental Policy, **The Withdrawal Agreement and Political Declaration: some environmental implications**, December 2018

Broadway Initiative, **Blueprint for an Environment Act**, December 2019



Green Alliance, **Funding nature's recovery How new public spending can unlock private investment**, November 2018

Brexit and Environment academic network, **Environmental commitments in the Withdrawal Agreement**, November 2018

The UK in a Changing Union, **Does the Withdrawal Agreement pass the green Brexit test?**, November 2019

Green Alliance, **What does the Withdrawal Agreement say about the environment?**, November 2018

Friends of the Earth, **What we need from a Westminster Environment Bill**, October 2018