

# **CALL FOR EVIDENCE ON THE GOVERNMENT'S REVIEW OF THE BALANCE OF COMPETENCES BETWEEN THE UNITED KINGDOM AND THE EUROPEAN UNION:**

## **Environment and Climate Change**

*Comments by*

**Northern Ireland Environment Link**

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Northern Ireland Environment Link (NIEL) is the networking and forum body for non-statutory organisations concerned with the environment of Northern Ireland. Its 62 Full Members represent over 90,000 individuals, 262 subsidiary groups, have an annual turnover of £70 million and manage over 314,000 acres of land. Members are involved in environmental issues of all types and at all levels from the local community to the global environment. NIEL brings together a wide range of knowledge, experience and expertise which can be used to help develop policy, practice and implementation across a wide range of environmental fields.

These comments are made on behalf of Members, but some members may be providing independent comments as well. If you would like to discuss these comments further we would be delighted to do so.

Prof Sue Christie, Director  
Northern Ireland Environment Link  
89 Loopland Drive  
Belfast, BT6 9DW  
P: 028 9045 5770  
E: [Sue@nienvironmentlink.org](mailto:Sue@nienvironmentlink.org)  
W: [www.nienvironmentlink.org](http://www.nienvironmentlink.org)

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Northern Ireland Environment Link (NIEL) welcomes the opportunity to comment on this crucial issue of the balance of competences between the EU and the UK in the area of environment and climate change. By way of introduction we would emphasise that, whatever the advantages and drawbacks of EU membership and competence in other areas of policy, in the environment there are many benefits for the UK.

Should the UK choose to disengage from the EU it is far from clear that any advantage would be gained even if the goal is to avoid the influence of European policy in this area. EU legislation, however, should be focussed on outcomes for the environment – the environment should benefit based on a clear understanding of what the legislation is intended to achieve (rather than the target not being met due to burdensome bureaucracy and lack of clarity).

Specific consultation questions are answered below.

## **Advantages and disadvantages**

*1. What evidence is there that EU competence in the area of environment and/or climate change has:*

*i. benefited the UK / your sector?*

A key advantage of EU competence in the environmental sector, in terms of environmental directives and legislation, is that it provides external accountability in environmental protection. In the 1970s and 1980s, the UK carried the reputation of being the 'Dirty Man of Europe' – EU membership has *driven* major changes in UK environmental policy, requiring a shift in policy style and goals (see, for example, Jordan 2002<sup>1</sup>, Wurzel 2005<sup>2</sup>).

A recent example of where external accountability has been important is seen in the ban of Neonicotinoid by the EU (where UK government had dismissed the issue). The European Food Safety Authority (EFSA) was able to identify unacceptable levels of risk to honeybees from some uses of these substances, as well as critical data gaps preventing a full risk assessment for other species and uses (report published in January 2013).

A clear benefit of EU competence to the UK has been in the farming sector. Without EU CAP support, farming in the UK (and particularly NI) would not be able to function as it currently does.

While the principle of subsidiarity is fundamental to the functioning of the European Union, application at a regional level can be inconsistent and irregular – the quality and consistency of EU legislation is to be valued. The consistency of EU competence is good for NI especially because of the land border with another Member State. EU legislation can act as a leveller in this context, where differences in law and market values across the border would create problems.

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<sup>1</sup> Jordan, A. 2002. *The Europeanization of British Environmental Policy*. Basingstoke, Palgrave Macmillan.

<sup>2</sup> Wurzel, R. 2005. *Environmental Policy-Making in Britain, Germany and the European Union*. Manchester, Manchester University Press.

The damage to the underwater natural habitat in Strangford Lough provides an example of EU impact when local competence was not enough to secure cross-departmental action, but where the possibility of EU competence stimulated some necessary action, albeit too late to avoid significant damage to protected species and habitats (a detailed case study on Strangford Lough will be submitted by one of our members).

It is clear that UK wildlife has been protected and enhanced by EU policies (under the Natura 2000 and Habitats Directives that oblige the UK government to provide protected wildlife zones). NI has also seen environmental improvement in a number of important areas under EU policies and Directives which would have been otherwise unachievable. Other examples include:

- Nitrates Directive (91/676/EEC)
- Water Framework Directive (2000/60/EC)
- EIA Directive (85/337/EEC)
- Public Participation Directive (2003/35/EC)
- Birds Directive (2009/147/EC)

The importance of EU regulation is particularly significant for trans-boundary environmental issues (for example, air quality, marine, migratory species). Global nature of some of these issues means that they need to be dealt with at a high a level as is possible – preferably global, but at least EU.

#### *ii. disadvantaged the UK / your sector?*

The 'one size fits all' approach can sometimes bring about unintended negative outcomes for the environment. For example, in the past, CAP has treated all regions in the same way. The NI farmed landscape has suffered from policies designed to tackle issues associated with the spread of large scale intensive practices prevalent elsewhere in Europe because the Northern Irish farming landscape (small and fragmented) is very different from, for example, Germany. Similarly there have been considerable problems arising from CAP field boundary measurements in NI, where farmers have removed habitat to ensure they received their Single Farm Payment – this poor outcome for the environment happened as a result of how boundaries were measured and CAP was administered. Thus, there needs to be appropriate flexibility in recognition of different conditions in different member states, and a mechanism to resolve perverse and unintended consequences such as the one described above.

While EU legislation is of high quality, the slowness with which it is implemented can lead to problems. For example, a bioethanol production requirement was introduced in legislation to drive renewable fuel, but slowness of implementation means that it is now recognised to be the wrong technology and implementation could be counterproductive in terms of overall sustainability and development of appropriate renewable technologies delivering positive environmental outcomes.

Variation in definitions of technical terms at different administrative levels can sometime bring about misunderstandings and lead to variable implementation of EU legislation (for example, the new Waste Framework Directive changing definition of 'waste' slightly).

Northern Ireland can have a tendency to lose out because the UK government does not always bear in mind the unique aspects of Northern Ireland when negotiating at an EU level, and policies promoted by DEFRA may not be relevant or beneficial to the local situation.

### **Where should decisions be made?**

*2. Considering specific examples, how might the national interest be better served if decisions:*

*i. currently made at EU level were instead made at a national, regional or international level? (What measures, if any, would be needed in the absence of EU legislation?)*

*ii. currently made at another level were instead made at EU level?*

Some issues should ideally be dealt with at a global level – for example, climate change, shipping, energy. However, if this is not possible (due to lack of international consensus), then they should be taken at as high a level as is possible (EU).

### **Internal market and economic growth**

*3. To what extent do you consider EU environmental standards necessary for the proper functioning of the internal market?*

An advantage of EU competence is clearly that it provides a ‘level playing field’, which is critical for industry. Sometimes inflexibility in implementation of EU legislation can disadvantage NI (an unintended consequence of devolution is that DEFRA can focus on England when representing the UK to the EU).

Different interpretations, and lag time in implementation, of EU legislation in different Member States can lead to competitive disadvantage to those who interpret most strictly (for example, disparity in speed of implementation of battery hen cage ban across Europe, or the lack of prompt and uniform implementation of Directive requirements.)

Business expert Roger Carr has said, “UK membership provides unfettered access to a single market of 500 million people, which today is our largest export customer. Departure would necessitate multiple bilateral agreements, frustrate free trade and damage our export performance in the medium term. Growth in new markets, however rapid, could not compensate for the inevitable decline in European activity”.

*4. To what extent does EU legislation on the environment and climate change provide the right balance between protecting the environment and the wider UK economic interest?*

NIEL strongly feels that framing the environment and the economy as being at odds is fundamentally wrong and is likely to result in both becoming diminished. The environment (including associated legislation) can and should work with the economy, rather than against it. The EU recognises this in, for example, the content of roadmaps for a Low Carbon Economy and Resource Efficiency.

EU legislation and associated targets can drive innovation – and importantly, the EU can provide support in meeting those targets (through, for example, the LIFE programme and Structural Funds). For example, EU renewables targets have led to significant economic activity and potential:

- In a 2008 report, *Northern Ireland Renewable Energy Supply Chain*, the Carbon Trust estimated that as many as 33,000 jobs could be created in the renewables sector.
- The Green New Deal Group demonstrated how 10,000 – 15,000 jobs could be created in retrofitting homes with energy efficiency measures.
- In the city of Freiburg, Germany, around 10,000 jobs have been created in the renewables and environmental services sector. Over 300,000 jobs have been created in the German renewables sector.
- Evidence for growth of the sustainable building industry in UK (even during recession) is given in the following report: [http://www.worldqbc.org/files/1513/6608/0674/Business\\_Case\\_For\\_Green\\_Building\\_Report\\_WEB\\_2013-04-11.pdf](http://www.worldqbc.org/files/1513/6608/0674/Business_Case_For_Green_Building_Report_WEB_2013-04-11.pdf)
- The report, *Low Carbon and Environmental Goods and Services: an industry analysis*, from the Department of Business, Enterprise and Regulatory Reform estimated the Northern Ireland market value of Low Carbon Environmental Goods and Services to be £3.3 billion with 1,620 companies employing 30,600 people.

As stated above, EU targets are often the stimulus for such activity (which is unlikely to be undertaken on a purely voluntary basis).

### **Doing things differently**

*6. How could the EU's current competence for the environment be used more effectively? (e.g. better ways of developing proposals and/or impact assessments, greater recognition of national circumstances, alternatives to legislation for protecting/improving the environment?)*

NIEL suggests that building review clauses (periodic or triggered by some safeguarding mechanism) into new EU legislation may be an important way of introducing flexibility to deal with the likelihood of climate change driving significant landscape and habitat change. EU governance structures related to the EU Biodiversity Strategy already include expert groups that could advise on such reviews.

In this context of changing climate having consequences for landscape, habitat and species, a better measure of success in judging outcome would be favourable conservation of a species or habitat, rather than designation by geographical area.

Some previous pieces of legislation may need revisiting and updating – for example, the Urban Waste Water Directive is very rigid and somewhat out of date. As technology and testing develop the ability to detect ever lower amounts of various substances means that having a 'zero' target is no longer pragmatic.

7. *How far do you think the UK might benefit from the EU taking:*

*i. More action on the environment/climate change?*

Strong regulation from the EU on issues around climate change would result in greater positive action being taken. For example, if there was an EU Climate Change Directive, NI would be required to actively play its part in emissions reduction rather than its current passive role within UK legislation. The UK and NI governments would be less likely to risk NI inactivity leading to infraction of such a Directive.

8. *Are there any alternative approaches the UK could take to the way it implements EU Directives on the environment and climate change?*

The UK should attempt to gain from the benefits of being an 'early adopter' (through recognition of direction of travel in policy and new legislation) rather than suffer the problems of having committed to outmoded technology and standards.

9. *a. What advantages or disadvantages might there be in the EU having a greater or lesser role in negotiating and entering into agreements internationally or with third countries?*

The EU has much greater negotiating power than any one country and is able to make its position and aims heard and taken seriously.

*b. How important is it for the UK to be part of "Team EU" at the UNFCCC?*

The EU carries more weight in UNFCCC negotiations than the UK would acting alone - See more at: <http://www.cer.org.uk/publications/archive/review-article/2013/eu-and-climate-change-policy#sthash.XAeFa1mw.dpuf>

### **Future challenges and opportunities**

10. *a. What future challenges or opportunities might we face on environmental protection and climate change?*

Public and political understanding of the environment and the ecosystems services that it provides – in terms of the flow of benefits from the environment to society. Setting environment against economy and vice-versa must stop – directives and legislation can be used to benefit both.

EU needs to lead the way on Payments for Ecosystems Services (PES). By adopting this approach there is the greatest likelihood that ecosystems will be enabled to deliver a multitude of services and decrease a number of local costs (e.g. flood control, water purification, soil erosion). With an EU lead it will be much easier for all countries to adopt a coordinated approach and deliver ecosystem services across national boundaries.

*b. Going forward what do you see as the right balance between actions taken at international, EU, UK, and industry level to address these challenges and opportunities?*

*c. What would be the costs and benefits to the UK of addressing these future challenges at an EU level?*

The concept and importance of ecosystem services is already embedded in EU environmental policy – there is benefit to the UK of this being addressed at EU because of the wider pool of expertise across Europe and the strategic / coordinated approach that this can bring in terms of meeting the needs of society across member states.

**Anything else?**

*11. Are there any general points you wish to make which are not captured in any of the questions above?*

In conclusion, NIEL would emphasise that many of the UK's most important environmental policies – those that keep tourist destinations clean and attractive, those that maintain air and water quality, those that provide business opportunity – come from membership of the EU, and associated EU power to act in these areas. Only through engagement and cooperation at EU level can we rise to the environmental and economic challenges that we face.

Many environmental issues require sustained action over a long period. The stability of EU policy can be particularly valuable in this context. It is relatively resistant to local political fashion, changes in government at UK and devolved levels, and can offer sufficiently stable conditions to consolidate environmental progress.