



Brexit and Environmental Law

**The UK and International
Environmental Law after Brexit**

September 2017

The UK Environmental Law Association is the foremost body of environmental lawyers in the UK. UKELA aims to promote better law for the environment and to improve understanding and awareness of environmental law. UKELA is composed of 1,400 academics, barristers, solicitors, consultants, and judges involved in the practice, study and formulation of environmental law across England, Scotland, Wales and Northern Ireland.

UKELA remained neutral on the Brexit Referendum. In order to ensure regulatory stability and continued environmental protection UKELA considers it imperative that the UK's current environmental legislation is preserved pending proper review, and full and open consultation on options for change. UKELA's full position on Brexit can be found at www.ukela.org/ukelaposition.

UKELA's Brexit Task Force was established in September 2016 to advise on all matters relating to and arising from the UK's decision to leave the European Union insofar as this impacts environmental law, practice and enforcement in the UK. The Task Force has been examining the legal and technical implications of separating our domestic environmental laws from the European Union and the means by which a smooth transition can be achieved. With the assistance of UKELA's specialist working parties the Task Force aims to inform the debate on the effect of withdrawal from the EU, and draw attention to potential problems which may arise.

The UKELA Brexit Briefing Papers have been produced under the guidance and approval of UKELA's Brexit Task Force chaired by Andrew Bryce and Professor Richard Macrory, and with input from relevant UKELA Working Parties and individuals. They do not necessarily and are not intended to represent the views and opinions of all UKELA members.

This report is one of a series to be published by UKELA on the implications of Brexit for environmental law.

Other reports already available include:

- **Brexit and Environmental Law: Exit from the Euratom Treaty and its Environmental Implications**
- **Brexit and Environmental Law: Enforcement and Political Accountability Issues**
- **Brexit and Environmental Law: Brexit, Henry VIII Clauses and Environmental Law**

Forthcoming reports include:

- **Brexit and Environmental Law: Environmental Standard Setting Outside the EU**
- **Brexit and Environmental Law: the UK and European Environmental Bodies**
- **Brexit and Environmental Law: Wales, Brexit and Environmental Law**

First published in Great Britain in 2017 by:
UK Environmental Law Association (UKELA)
One Glass Wharf, Bristol, BS2 0ZX

www.ukela.org

© UK Environmental Law Association

ISBN: 978-1-9997986-2-8

All rights reserved. Without limiting the rights under copyright reserved above, no part of this publication may be reproduced, stored or introduced into a retrieval system, or transmitted, in any form or by any means (electronic, mechanical, photocopying, recording or otherwise), without the prior written permission of both the copyright owner and the publisher of this book.

Table of Contents

Executive summary	3
Introduction	5
Preserving compliance with international law post-Brexit.....	5
The Annex to this report	6
Limits of the scope of this review.....	8
Emerging issues in EU-only international environmental agreements	9
Agreements will cease to bind the UK unless the UK signs and/or ratifies them.....	9
Restricted scope for relying on unincorporated agreements in proceedings before domestic courts	10
Issues 'rolling over' the EU and domestic laws and measures that implement EU-only international environmental agreements.....	10
Issues where EU-only international environmental agreements supplement a previous ('parent') agreement which was concluded as a mixed agreement.....	11
Issues for maintaining the current levels of environmental protection after Brexit.....	11
Emerging issues in mixed agreements.....	13
Uncertain status of mixed agreements after Brexit and the need for a clear statement from Government.....	13
Future amendment to international environmental agreements and trade sanctions.....	14
Mixed agreements implemented at European level solely by EU directives	15
Mixed agreements implemented by a combination of different types of measures.....	15
Emerging Issues in UK-only agreements	17
Emerging issues in enforcement of international environmental agreements...	19
Enforcement against the UK: limited availability and effectiveness of enforcement mechanisms contained in many international environmental agreements	19
Enforcement against the UK: increased reliance on international environmental agreements in proceedings before domestic courts.....	20
Enforceability of sanctions against other countries	21
Endnotes	23
Annex (England)	27
Nature Conservation.....	28
Atmospheric Emissions.....	43
Environmental Impact.....	57
Access to Environmental Information	61
Marine Environment.....	69
Transboundary Pollution.....	90
Nuclear Safety	102

Executive summary

This report discusses some of the key issues and challenges that may arise from the United Kingdom's international environmental obligations after Brexit. It is based on a mapping exercise that the UK Environmental Law Association has undertaken of international environmental agreements currently in force and how they have been implemented and enforced at European Union and national level. Our findings, as they apply to England, are set out in an Annex to this report. Further work is currently underway to map implementation in Scotland.

It is UK Government policy that, upon withdrawal from the EU, the UK will remain bound by its existing international environmental obligations. There are three ways in which the UK as an EU Member State becomes party to an international agreement (whether a convention, a treaty or another instrument) and for each the complexity of giving effect to the intention to remain bound is different.

First, there are international agreements entered into by the EU alone. Unless and until the UK itself ratifies EU-only international environmental agreements the UK will lose the 'backstop' they provide in terms of obligations, rights and minimum standards. **We urge the UK Government to clarify which EU-only international environmental agreements it will sign and/or ratify in order to maintain the current level of environmental protection.**

Second, there are international agreements ratified jointly by both the EU and the UK ('mixed agreements'). We have found the effect of Brexit on these kinds of agreements to be the least legally straightforward. **We recommend that the UK Government makes a clear statement of its understanding of the legal position of these mixed agreements after Brexit, the basis for this understanding, and whether it assumes that the UK will automatically be bound by the whole (or part) of such an agreement.**

Third, there are international agreements entered into by the UK alone. We have found that the effects of Brexit on these agreements will be limited and therefore the Government's intention to remain bound by these agreements will be easiest to give effect to. However, care must be taken where the obligations contained in a UK-only agreement are currently implemented through EU legislation.

We recommend that where retained EU law currently implements an international environmental agreement which the UK will not be bound by after Brexit (whether a mixed agreement or an EU-only agreement), then the powers in the European Union (Withdrawal) Bill to amend this should be restrained and subject to enhanced scrutiny, unless the Government has made a conscious and open decision not to sign or ratify that agreement.

For those international environmental agreements that will continue to bind the UK, we have identified a number of significant issues for ensuring proper implementation after Brexit. Some of these issues relate to ensuring that relevant retained EU law and other implementing measures are properly 'rolled over' on exit day. Other issues concern future implementation of the agreements after Brexit. They include the need for some mechanism for ensuring that our domestic legislation continues to capture future technical and other changes to requirements under international environmental agreements. New powers may need to be created for this purpose.

We have also identified challenges for enforcement of international environmental agreements after Brexit. **We recommend that where full and proper implementation of an international environmental agreement is judged to be at high risk, further research should be undertaken into the availability and effectiveness of the enforcement mechanisms contained in that agreement.**

Brexit and Environmental Law: The UK and International Environmental Law after Brexit

Introduction

- 1 The United Kingdom is party to over forty international environmental agreements covering areas such as climate change, wildlife and habitat protection, transfrontier movements of waste, air pollution, and access to environmental justice, as well as numerous other international instruments made under these agreements. It is the UK Government's policy that, following the UK's withdrawal from the European Union, it will remain bound by these, subject to possible future review. However, ensuring this happens is not necessarily legally straightforward. Many international environmental agreements have been ratified jointly by the EU and the UK, and often EU legislation has fleshed out considerably the core provisions of international environmental agreements. Moreover, the Government's intention in relation to international agreements entered into by the EU alone, on behalf of Member States, remains unknown.
- 2 This report discusses some of the key issues and challenges that may arise from the UK's international environmental obligations after Brexit. It is based on a mapping exercise that the UK Environmental Law Association (UKELA) has undertaken of international environmental agreements currently in force and how they have been implemented and enforced at EU and domestic level. The findings of that review are complete in relation to UK-wide and English law, and these results are set out in the table attached as an Annex to this report. Further work is underway to broaden this review to encompass implementation in the devolved nations, starting with Scotland.

Preserving compliance with international law post-Brexit

- 3 The intention to preserve compliance with international law after the UK withdraws from the EU has been emphasised by the Government on many occasions. The Prime Minister said in her speech to the Conservative Party Conference on 2 October 2016 that:

*"When the Great Repeal Bill is given Royal Assent, Parliament will be free – subject to international agreements and treaties with other countries and the EU on matters such as trade – to amend, repeal and improve any law it chooses."*¹

- 4 This position was repeated by the Secretary of State for Exiting the European Union in a ministerial statement to the House of Commons on 10 October 2016². It was set out again, in even clearer terms in the UK Government's two White Papers on withdrawal from the EU.³ The First White Paper, published on 2 February 2017, stated that:

*"We will of course continue to honour our international commitments and follow international law."*⁴

- 5 The former Secretary of State for the Environment, Food and Rural Affairs made a similar statement in evidence to the Environmental Audit Committee, assuring the committee that the Ramsar and Berne Conventions were "international agreements that the UK has signed up to and, therefore, we will continue to be party to once we leave the EU"⁵. More recently, the Factsheet on Environmental Protection, published alongside the European Union (Withdrawal) Bill ("the Withdrawal Bill") answers the question "Will the UK continue to meet its international environmental commitments?", with reference to five mixed agreements:

*"The UK will continue to play an active role internationally as demonstrated by the UK ratifying the Paris Agreement on Climate Change. We will continue to uphold our obligations under international environmental treaties such as the Montreal and Gothenburg Protocols, the Stockholm Convention, the Convention on Biological Diversity (CBD) and the Convention on International Trade in Endangered Species (CITES)."*⁶

- 6 Although these statements are, on the surface, clear as to the Government's intention, they do not define precisely what the UK international commitments are and will be after Brexit. These statements are ambiguous because they do not recognise that although the Government's intention to honour its international commitments after Brexit is uncontroversial, it will not be a simple task for the Government to withdraw the UK from the EU whilst remaining bound by all of these agreements, or preserving the implementation of these international commitments. This report aims to shed light on the legal issues involved because, as noted in the House of Lords Energy and Environment Sub-Committee report on Brexit: Environment and Climate Change:

*"Those international agreements that have been implemented through EU law... present a distinct challenge."*⁷

- 7 The EU, as an international actor with legal personality, entered into many of these international environmental agreements on behalf of its Member States (in those areas in which it had exclusive competence, under Article 3 of the Treaty on the Functioning of the European Union) or together with Member States in a mixed agreement (where competence for the subject matter of the treaty was shared, under Article 4). The implementation of these agreements through EU law presents an array of problems for disentangling the layers of international, European and domestic jurisprudence.
- 8 The extent to which the UK is bound by international environmental agreements post-Brexit is significant for the future of domestic environmental law for a number of reasons. The primary purpose of the Withdrawal Bill is to repeal the European Communities Act 1972 and retain, as far as practicable, existing EU law and EU-derived domestic law within the domestic legal system, until there is an opportunity to review and revise these laws⁸. Therefore if the Withdrawal Bill enters into law as it is, EU law will no longer have independent legal authority within the UK and international environmental agreements will become the main external sources of legal standards and core requirements of environmental protection in the UK. As Professor Maria Lee said in evidence before the House of Lords Energy and Environment Sub-Committee session on Brexit: Environment and Climate Change:

*"International law will become politically more significant [...] because that will be the backstop beyond which we cannot fall in terms of environmental standards."*⁹

- 9 As we discuss below, EU environmental law has fleshed out many of the requirements of international environmental agreements to which the EU and Member States are parties. The Withdrawal Bill and related legislation will need to ensure that this body of law is properly retained on exit day. It will also be critical to understand the extent to which the content of these laws has been determined by the requirements of international environmental agreements, and therefore how much leeway there is for retained EU law to be altered after Brexit¹⁰. Conversely, our analysis may be significant because there may be other legal means of implementing the agreement in question.

The Annex to this report

- 10 This report is supplemented by an Annex setting out the findings of our research to date on the extent of the UK's international environmental obligations, its implementation and enforcement. It draws upon a number of sources, including the websites of individual international environmental agreements, the Foreign and Commonwealth Office's UK Treaties Online website, the European External Action Service's Treaties Office Database website, the ECOLLEX service (operated jointly by the FAO, IUCN and UNEP), online legal research services for lawyers and legal professionals such as Westlaw, and the European Union's EUR-Lex service. It is intended as a reference document to help inform analyses of the impact of Brexit on UK environmental law. It is a living document which is intended to be continually edited and updated.
- 11 The first purpose of the Annex is to distinguish between different categories of international environmental agreements based on competence. The three categories of agreements are:
- a) those which come within the EU's exclusive competence and which the EU alone has entered into ("EU-only agreements");

- b) those which contain elements falling within both EU competence and Member State competence, and which as a consequence both the UK and the EU have entered into as mixed agreements (“mixed agreements”); and
- c) those for which the UK has sole competence and has ratified on its own (“UK-only agreements”).

12 Delineating between these categories is not always straightforward. As the House of Commons Library has pointed out:

“It is not always clear which areas in an agreement fall within the EU’s exclusive competence and which fall within the remit of Member State competence. The European Commission determines on a case-by-case basis whether or not an agreement is “mixed”, depending on its content.”¹¹

The European Commission has in the past contested whether the EU has exclusive competence over an agreement and asked the Court of Justice of the European Union for an Opinion to adjudicate on the allocation of competence¹².

13 The Annex provides links to declarations of EU competence, where these are available, although as the House of Commons library notes “these declarations are not legally binding and they do not necessarily clarify responsibilities or deal with competency concerns”¹³. Links to recorded declarations by the UK and travaux préparatoires (documentary evidence of the negotiation, discussions, and drafting of a final treaty text) have not been included, although both may also be useful in interpreting the extent of the UK’s extant obligations.

14 The extent of UK/EU competence remains a relevant issue, particularly when discussing below the extent to which the UK may remain bound by a mixed agreement after Brexit¹⁴; however, we have recognised the difficulty in attempting to ‘unpick’ each actor’s respective competence for every agreement and limited the scope of this exercise. As our concern is whether the UK remains bound by all or part of an agreement, we have chosen to focus on how each international environmental agreement has *in fact* been concluded by the EU and/or signed by the UK.

15 The second purpose of the Annex is to summarise how each international environmental agreement has been implemented. We have focused our attention here on EU-only and mixed agreements, as the implementation of international agreements ratified solely by the UK, without any EU competence, is less likely to be affected by Brexit (although this possibility cannot be entirely excluded). Our starting point has been to ascertain the EU law used to implement an agreement. We have endeavoured to distinguish between instances of implementation by directly applicable EU regulations or decisions (which normally do not require domestic transposing measures and may have no counterpart in domestic law) and those where implementation was achieved by EU directives (which will have required domestic transposing legislation)¹⁵. The Annex has also highlighted where an agreement is implemented domestically by non-statutory guidance and policy.

16 We have found that in some cases implementation and transposition of an international environmental agreement is straightforward, but in others an array of EU and domestic instruments implement an agreement. Identifying exactly which of those provisions are necessary to implement the requirements of an agreement, and not go beyond the minimum requirements, would require a level of detailed analysis beyond the scope of this study. In any event, an analysis of the measures necessary to implement the requirements of a mixed agreement would depend on the outcome of further discussion about the post-Brexit status of mixed agreements, in order to ascertain the precise scope of those requirements.

17 The final purpose of the Annex is to outline the means by which obligations under international environmental agreements may be enforced. The availability and effectiveness of enforcement mechanisms under international environmental agreements varies greatly. Until Brexit, where many such agreements have been implemented through EU legislation, the enforcement mechanisms available under EU law have been the primary means for ensuring governments and public authorities comply with such obligations. After Brexit, this enforcement shield will not be available, and the adequacy of international enforcement mechanisms will become much more significant. British law has adopted a ‘dualist’ approach to international law, which means that unincorporated international agreements have a restricted status in domestic law and, generally, provisions contained in international agreements cannot be directly invoked in national courts. The courts will often use international law to assist in the interpretation of domestic law, but unless there is domestic law incorporating (i.e. implementing) the agreement in question national courts cannot provide a remedy if it is claimed the Government is not complying with international obligations¹⁶. Thus it is important to evaluate the status of external mechanisms for enforcing legal obligations under international agreements, and evaluate their future effectiveness, in particular where our analysis on implementation has shown the UK might not be complying with its international obligations.

Limits of the scope of this review

- 18 There are issues which we have not had the opportunity to examine. We have not looked at the UK's role in international negotiations and environmental diplomacy, or the relationship between domestic and international policy agendas¹⁷. Withdrawal from the EU may mean that the UK is no longer bound by common positions in international organisations (e.g. CITES) and we have not looked at how withdrawal will affect the environmental standards enforced within (or against) the UK. Furthermore, the EU has often added technical details to complement international agreements (such as deadlines and timetables) which we have not, at this stage, sought to distinguish from other substantive obligations under such an agreement.
- 19 Importantly we have limited our analysis to implementation measures relevant to England. Environment and planning are devolved matters and the transposition of EU law relating to the environment takes different forms in Scotland, Wales and Northern Ireland (and Gibraltar). Although differences in law and policy in the devolved countries might not be substantial, the ramifications of Brexit for the implementation of international environmental agreements across the devolved administrations may be different. At present the devolution settlements make different provisions for allocating competence for implementing EU law and international law¹⁸ which complicate the means by which compliance with existing obligations is maintained. For instance, the current divide between devolved and reserved matters essentially leaves international affairs to the UK Government and the environment to the devolved administrations, creating demarcation issues. The interaction of the devolution settlements, other instruments (such as Memoranda of Understanding) and constitutional conventions with the Withdrawal Bill (including any future amendments to it) may also greatly affect this analysis. Understanding the interaction between Brexit, devolution and international law is a crucial area of research across subject areas, including environmental law. Although this has fallen outside the scope of this report we have identified this as a key area for further analysis and one which we intend to address in future iterations of this paper and the Annex.

Emerging issues in EU-only international environmental agreements

Agreements will cease to bind the UK unless the UK signs and/or ratifies them

- 20 The EU has concluded a plethora of international environmental agreements in areas exclusively within its competence under Article 3 TFEU. After Brexit these international environmental agreements will no longer continue in force in the UK. Unless and until the UK ratifies EU-only international environmental agreements, it will lose the 'backstop' they provide in terms of obligations, rights and minimum standards. There are four main reasons for this, outlined below, three international and one domestic.
- 21 First, Article 29 of the Vienna Convention on the Law of Treaties sets out that a treaty (i.e. an international agreement) is binding on a party in respect of its entire territory¹⁹. Where the EU is the signatory to an international environmental agreement the 'entire territory' will most likely be interpreted, as a matter of public international law, as encompassing the combined territory of the EU's Member States, which will therefore cease to encompass the territory of the UK. Second, Article 216(2) TFEU states that international agreements entered into by the EU alone bind the institutions of the EU and its Member States²⁰. This means that when the UK ceases to be a member state it will cease to be bound by such international agreements. Third, the inclusion of 'territorial application' clauses in many EU external agreements restricts the agreement to territories where the EU Treaties apply, thus automatically ending the UK's participation in them and precluding the UK from automatically becoming a party to them²¹.
- 22 Fourth, domestic ratification of EU-only international environmental agreements will not occur automatically. In cases where the UK has signed an international agreement which has come into force for it by virtue of the EU's becoming a party, the procedure under section 20 of the Constitutional Reform and Governance Act 2010 will assist. This provides that the agreement must be laid before Parliament, alongside an Explanatory Memorandum, and will be ratified if neither House resolves that it should not be ratified²². The negative resolution procedure is not a high bar to pass and could allow for the expeditious ratification of EU-only agreements where the UK is already a signatory, provided there are no grounds for Parliament voting against ratification. The power given to Ministers by clause 8 of the Withdrawal Bill to remedy or prevent any breach of international obligations arising from Brexit does not appear (in its present form) to give the minister any powers which would displace or supplement the requirements of section 20.
- 23 The section 20 procedure could help prevent several important international conventions ceasing to apply after Brexit. For instance, the UK is a signatory to the 1992 Water Convention but has not ratified it. As transboundary cooperation is crucial in relation to the waterways and lakes spanning the boundary between Northern Ireland and the Republic of Ireland, and the UK is bound by it only by virtue of the EU's being a party, urgent consideration should be given to ratifying the Water Convention under section 20 CRGA 2010 (or the exceptional cases provisions under section 22²³). It should also be considered that even if the Government were to agree that the UK should accede to an international environmental agreement, further conditions and procedures for accession may have to be followed. The conditions and procedures for accession are usually a low bar to pass, however they depend on the specific provisions of the individual agreement or, in the absence of any such provisions, the agreements of the other parties to the UK's accession²⁴ (which may then present political difficulties).
- 24 A recent, and more complex, example is the Minamata Convention on Mercury, which entered into force on 16 August 2017 and is (at present) an EU-only agreement. The European Union ratified this agreement in May 2017, however the UK has (at the time of writing) only signed the agreement. Statements made by Ministers and reported by the House of Commons European Scrutiny Committee, requesting the inclusion of a declaration of competence, suggest that the UK considers this agreement one of mixed competence²⁵. Notwithstanding the ratification of this agreement by this (or a future) Parliament, once this agreement enters into force it will only do

so by virtue of the EU's conclusion of the agreement and the directly-applicable European legislation implementing it. As the EU legislation implementing the Convention will only have partially come into effect on exit day only the provisions which has come into force at that point will be classified as 'operative' and retained in domestic law under clause 3 of the Withdrawal Bill. If the UK were to ratify the Convention, in addition to pursuing the section 20 procedure and satisfying the requirements of Article 30 of the Convention (governing accession), the Government would need to amend the retained EU law implementing it, using the powers under clause 8 or enact further legislation.

- 25 After Brexit the UK will no longer be bound by EU-only international environmental agreements and (to the extent that they are enforceable) the obligations and environmental protections contained within these agreements will no longer be effective in the UK. This outcome is contrary to the spirit of committing to honouring the UK's international commitments. UKELA is not aware of any indication from the Government committing it to maintaining EU-only agreements. We strongly urge the Government to clarify which EU-only international environmental agreements it will sign and/or ratify in order to maintain the current level of environmental protection.

Restricted scope for relying on unincorporated agreements in proceedings before domestic courts

- 26 We have analysed the implementation of the obligations flowing from EU-only international environmental agreements in order to assess whether the current level of environmental protection will be maintained post-Brexit. In a speech to UKELA's 2016 Annual Conference on the subject of International Law in Domestic Practice, James Maurici QC explored the different routes in which unincorporated international agreements (i.e. agreements that are not implemented by primary or secondary legislation) could be relied upon in domestic courts²⁶. He noted that:

*"Under EU law a provision in an international agreement concluded by the EU with a non-member country must be regarded as being directly applicable in the law of the Member States when, regard being had to its wording and to the purpose and nature of the agreement, the provision contains a clear and precise obligation which is not subject, in its implementation or effects, to the adoption of any subsequent measure."*²⁷

- 27 He then gave the example of Case C-213/03 Syndicat Professionnel Coordination des Pêcheurs de l'Étang de Berre et de la Région v Electricité de France, where the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-based Sources was held to be directly effective in domestic law via EU law²⁸. After Brexit this mechanism will no longer be an effective means of relying on these kinds of unincorporated international agreements in proceedings before domestic courts²⁹.

Issues 'rolling over' the EU and domestic laws and measures that implement EU-only international environmental agreements

- 28 The Annex highlights three main models of implementation for EU-only international environmental agreements. First, there are examples of EU-only agreements implemented by directly applicable EU law which does not have any counterpart in domestic law. Under Article 288 TFEU, regulations and decisions are binding in their entirety and directly applicable either in all Member States (in the case of regulations) or to those Member States to which they are addressed (in the case of decisions); therefore they do not necessarily require any domestic legislation to give them domestic effect. Examples of implementation of EU-only international environmental agreements by directly applicable EU law without a domestic counterpart include the International Convention for the Conservation of Atlantic Tunas 1966 (from which the UK withdrew following the accession of the EC in 1997) and the Convention for the Conservation of Salmon in the North Atlantic 1982 (which established the North Atlantic Salmon Conservation Organization), both of which are implemented through EU regulations with no domestic counterpart.

- 29 Second, there are examples of EU-only international environmental agreements implemented by directly applicable EU law which do have a domestic counterpart. Examples include the 1998 Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Persistent Organic Pollutants (which is implemented by EU regulations and domestically by the Persistent Organic Pollutants Regulations 2007); and the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas 1993 and the Straddling Fish Stocks Agreement (which are implemented by, *inter alia*, the Common Fisheries Policy Regulations and a range of domestic regulations). Third, are instances where EU directives implement the obligations under EU-only international environmental agreements where the EU law has been fully transposed by domestic secondary legislation.
- 30 For the first and second model of implementation, Clause 3 of the Withdrawal Bill will incorporate direct EU legislation into domestic law, as the 'operative' EU legislation to which this clause applies includes directly-applicable EU laws that implement EU-only international agreements. For the second and third model of implementation, Clause 2 of the Bill will retain the applicable EU-derived domestic legislation. Therefore for each of these models *prima facie* the rules implementing the UK's current obligations will roll over despite the international agreements which serve as the source of those obligations ceasing to bind the UK. However, as with other areas of retained environmental law, the Government may choose to repeal or amend these provisions using the powers in clauses 7, 8, 9 or 17 of the Bill³⁰.
- 31 Detailed analysis of the operation of the retained domestic law which implements EU-only agreements will be necessary to ensure that in each case it works properly after Brexit. Key issues will include ensuring that cross-references to other EU measures continue to make sense, as well as ensuring adequate governance, accountability and enforcement mechanisms are provided for, where these functions are currently carried out by European institutions. It is likely that some amendment will be necessary. While these issues for the operability of retained EU law are generally applicable, it will be acutely necessary to ensure that this legislation does not become inoperable, as the UK will no longer be bound by the underlying international environmental agreement.

Issues where EU-only international environmental agreements supplement a previous ('parent') agreement which was concluded as a mixed agreement

- 32 We have identified a further difficulty in relation to EU-only international environmental agreements that supplement a previous ('parent') agreement which was concluded as a mixed agreement. The SEA Protocol and First Amendment to the Espoo Convention were concluded by the EU alone and are implemented by EU legislation (the EIA and SEA Directives, respectively) which the UK has transposed into domestic legislation. However, although neither the Protocol nor the Amendment will be in force in the UK after Brexit (as they are both EU-only agreements) the parent Convention may still be, as it was concluded as a mixed agreement and ratified by the UK³¹. Therefore the view that the use of delegated powers under the Withdrawal Bill to make "[a] correction amending the references to 'other EEA States' to 'EEA States' [in the Town and Country Planning (Environmental Impact Assessment) Regulations 2017], would allow the requirement on transboundary consultation to continue to function on exit as it does now" may not be entirely correct³² because the reciprocal obligations contained in the treaty may not subsist. **Further analysis will need to be undertaken in relation to the UK's post-Brexit international environmental obligations arising from these EU-only international environmental agreements made under parent mixed agreements.**

Issues for maintaining the current levels of environmental protection after Brexit

- 33 We have identified further potential risks to maintaining current levels of environmental protection in the absence of international backstops. First, domestic environmental legislation that implements EU-only international environmental agreements may be vulnerable to change in the longer-term. As the Environmental

Audit Committee has said:

“Transposition is likely to be complex and time consuming, and Government must ensure that protections are not weakened, either during the process of leaving the EU or afterward, and provide the opportunity for full parliamentary scrutiny of the UK’s future environmental legislation.”³³

- 34 The Withdrawal Bill (as introduced to Parliament in July 2017) introduces significant powers to make regulations to amend retained EU legislation³⁴. These include clause 7 which allow a Minister to make regulations to “prevent, remedy or mitigate (a) any failure of retained EU law to operate effectively, or (b) any other deficiency in retained EU law”, as well as clause 8 “to prevent or remedy any breach, arising from the withdrawal of the United Kingdom from the EU, of the international obligations of the United Kingdom”. Both powers allow the regulations “make any provision that could be made by an Act of Parliament”³⁵.
- 35 While the use of these powers may be intended to enact regulation to address technical issues related to deficiencies arising from withdrawal, complying with international obligations and implementing the withdrawal agreement, there is concern about the possibility that they might be used to change policy, and potentially deregulate. Furthermore, any restraints which may be attached to the powers in the Withdrawal Bill³⁶ may not apply to other powers available to ministers which may also be used to amend retained EU law (for instance, under paragraphs 3 and 5 of Schedule 8 of the Bill). The risk therefore remains that if the Government has not ratified an EU-only agreement, retained legislation may be susceptible to amendment and change, ignoring the original constraints of the relevant international agreement. We are aware of proposals for new scrutiny measures (such as the Hansard Society’s ‘sift and scrutiny’ model under which a permanent Delegated Legislation Scrutiny Committee would be established³⁷) although none have been contained in the Withdrawal Bill. **We recommend that where retained EU law implements obligations derived from EU-only international agreement, the Government should not be able to amend this legislation without first making a clear statement as to whether it intends to ratify that agreement. Therefore, we recommend that any amendment to retained EU law which used to implement an EU-only international agreement is subject to Parliamentary debate and/or enhanced scrutiny.**
- 36 The second matter relates to the functions given to European institutions under EU law to implement and enforce EU-only international environmental agreements. EU institutions have vital functions in maintaining legal and political accountability, which are a key feature of the EU legal system. Institutions such as the European Commission (and a multitude of other agencies, bodies and associations) serve a supervisory role, as well as performing other vital, secondary functions, such as serving as a conduit for reporting and information exchange. The question of whether these institutions and institutional functions are going to be replicated under the Withdrawal Bill, and if so how, is not addressed in either White Paper and only broadly referred to in clause 7(5) (and tangentially in schedule 7 paragraph 1(2)(a)) of the Withdrawal Bill: therefore, a critical question remains as to whether they can (and should) be replicated within our national system in future.
- 37 This issue is not specific to EU-only agreement but the impact is likely to be more significant than it would be in relation to mixed agreements because (unless the UK ratified these EU-only agreements) the UK stands to lose both the ‘backstop’ and any international enforcement mechanism for that backstop. This issue is addressed in detail in our report on ‘Enforcement and Political Accountability Issues’³⁸. It will also be considered in a forthcoming report on ‘the UK and European Environmental Bodies’. **At this stage we wish to highlight the particular vulnerability of maintaining, overseeing and enforcing environmental standards in areas currently underpinned by EU-only international environmental agreements, where both the ‘backstop’ and the enforcement mechanism for that backstop may be lost.**

Emerging issues in mixed agreements

Uncertain status of mixed agreements after Brexit and the need for a clear statement from Government

38 The question of whether the UK will automatically remain a party to international environmental agreements entered into as mixed agreements is complex and spans a range of practice areas; however, the issue is particularly prevalent in the field of environmental law where a vast amount of obligations and standards derive from mixed agreements. Summarising the range of opinions, UKELA Brexit Task Force Co-Chair Professor Richard Macrory said in evidence to the House of Lords Energy and Environment Sub-Committee:

*"I wrote an article recently on this subject and consulted three different groups of international lawyers. One said that we would definitely still be bound, because we have just assumed all the competences—nothing more. The second said, "No, no, you will have to renegotiate"; and the third said that it was all very difficult."*³⁹

39 A House of Commons Library report gave a similar view on the uncertain future status of mixed agreements. However, it concluded that: "[o]n balance, most analysts believe that both exclusive and mixed agreements will fall on exit day, and will have to be renegotiated after Brexit, or possibly in parallel with negotiations on the withdrawal agreement"⁴⁰. A paper published by the Centre for European Policy Studies similarly argues that "leaving the EU would mean that the UK ceases to be bound by the 'EU-only' elements of mixed agreements", but that "it could if it wanted to[,] and the other parties agreed to it, remain bound by the 'mixed' elements of such agreements because they were signed and ratified by the UK as a contracting party in its own right"⁴¹.

40 On the other hand, the House of Lords Energy and Environment Sub-Committee leaned toward the position that the UK will remain bound by mixed agreements post-Brexit⁴². The Committee cites the evidence of the Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs that:

*"It is my understanding that as the UK is already a party in its own right it absolutely will stick to the commitments, and is obliged to, once we leave."*⁴³

41 Professor Macrory gives some suggestion as to how this might work, saying:

*"Provisions under the Vienna Convention on Treaties deal with succession and the rights of withdrawal following a 'fundamental change of circumstances' but they do not appear to directly address the circumstances of a country leaving a regional grouping."*⁴⁴

42 Despite her assurances, the Under Secretary's statement is still ambiguous: it is not clear whether she is implying that the UK will continue to be bound by those parts of the mixed agreement where it has existing competences, or whether post-Brexit it will be automatically bound by the whole agreement. Furthermore, depending on the basis of the Government's understanding, its view may not be the same as that held by other international actors responsible for reciprocal obligations. The fact that there is a current lack of clarity as to whether a sizable proportion of international obligations will remain extant necessarily complicates any attempt to anticipate the effect of Brexit on environmental law. **We recommend that the Government makes a clear statement of its understanding of the position and legal status of mixed international environmental agreements after Brexit, the basis for this understanding, and whether it understands the UK to be automatically bound by the whole agreement (on the assumption that it will have acquired all the competences now held by the EU).**

43 If the UK does not continue to be bound by mixed agreements then the problems identified above in relation to EU-only international environmental agreements will also be relevant to this category of law⁴⁵.

44 If the UK continues to be bound by part of a mixed agreement then clarification will need to be sought about which of these agreements the UK Government intends to ratify in full, and how this procedure will interact with

Parliament's role in ratifying agreements under section 20 CRGA 2010. If full ratification is not sought then the issues identified in relation to EU-only agreements will be relevant in relation to those provisions which were previously within the EU's competence. Further questions will arise in relation to the UK's ongoing relationship with bodies and mechanisms created under such agreements, particularly where the agreement creates reciprocal rights and obligations. **Given the multitude of uncertainties in this area, when the post-Brexit status of mixed agreements is clarified further detailed mapping will be required.**

- 45 If the UK continues to be bound by the entirety of mixed agreements then the analysis will have to focus on whether the remaining combination of preserved domestic legislation and retained EU law satisfactorily implements the UK's obligations under these agreements.
- 46 Notwithstanding the broad powers given to Ministers under clause 8 of the Withdrawal Bill to make regulations to "prevent or remedy any breach... of the international obligations of the United Kingdom" particular attention will have to be given to those instances where a mixed agreement is implemented by both EU legislation and parallel domestic statutory instruments addressed as different elements of an international environmental agreement, reflecting the different competences of the UK and the EU. For instance, the 1980 Convention on the Conservation of Antarctic Marine Living Resources is implemented both by Council regulations which set down control, technical measures and quotas for fishing in areas covered by the Convention (which do not have domestic supporting legislation) and domestically by the Antarctic Act 1994 which deals predominantly with non-fisheries based matters (which are not EU competencies). Of particular concern will be the interaction between the preserved and converted legal regimes, and the institutions which have relevant functions under them.

Future amendment to international environmental agreements and trade sanctions

- 47 We note additional issues in relation to future amendment of an international environmental agreement and the manner in which this is transposed. The first issue is whether the Withdrawal Bill and related legislation will allow for future changes to the agreement to be captured in domestic legislation. For instance, the Appendices to CITES contain lists of endangered species which are frequently updated and revised. These revisions are implemented at EU level through amendments to the lists of species set out in the Annexes to the EU CITES Regulations⁴⁶. The UK has enacted domestic regulations (such as the Control of Trade in Endangered Species Regulations) which, *inter alia*, create offences by reference to the EU legislation (i.e. regulation 4(3) COTES, referring to the CITES Basic Regulations). These domestic regulations automatically adopt amendments to the EU lists of endangered species, by the use of 'ambulatory references' to the EU CITES Regulations and Annexes 'as amended from time to time'.⁴⁷ Under the Withdrawal Bill however, these kinds of ambulatory references would cease to capture changes to relevant EU laws made after exit day⁴⁸. Conversely however, not all amendments to the EU CITES Regulations would need to be implemented domestically to ensure continued compliance with the Convention, as the Annexes go significantly beyond the lists in the Appendices to the Convention, in that they include additional species regarded as justifying protection under EU law. **After Brexit, there will need to be some mechanism for ensuring that our domestic legislation continues to capture changes to requirements under international environmental agreements such as the CITES lists of endangered species.**
- 48 **New powers may need to be created for this purpose, to fill the gap left following repeal of the power under section 2(2) of the European Communities Act 1972 to make regulations to implement changes to EU law.** The regulation making power contained in Clause 8 of the Withdrawal Bill does not appear to address this issue. Not only will the power expire two years after exit day⁴⁹ but it is limited in clause 8(1) to preventing breaches of international law "arising from withdrawal from the EU", which (depending on the interpretation of these powers) may not be sufficiently wide to cover this issue.
- 49 The second issue is in relation to trade sanctions. The UK currently implements many multilateral sanctions regimes through EU legislation which is given effect through section 2 ECA 1972, therefore new legal powers may be required to maintain our ability to impose, implement and amend sanctions regimes. The CITES sanctions scheme requires the suspension of trade in CITES-listed specimens with a country which is not complying with the Convention. We are aware that the Government recently responded to the outcome of a public consultation on the White Paper for a future legal framework for imposing and implementing sanctions⁵⁰.

While outside the scope of this paper we note that in its response to whether the UK Government needs further powers it said:

“The government agrees that sanctions need to evolve and be tailored to the specific activities they aim to address. The Sanctions Bill would specify the main measures that may be included in a specific sanctions regime but would also give the government a degree of flexibility to suggest other measures when it creates or amends a specific sanctions regime through secondary legislation.”⁵¹

- 50 In the context of changes to an international environmental agreement to which the UK is a party, it is important that after Brexit the UK has sufficient legal powers to implement sanctions which reflect amendments made to the parent agreement.

Mixed agreements implemented at European level solely by EU directives

- 51 We have identified mixed agreements implemented at EU level solely by directives. Our analysis has shown that this category is the least common, however important examples include the Bern Convention which is implemented by the Birds and Habitats Directives, which in turn are transposed into UK law by domestic legislation, including, *inter alia*, the Conservation of Habitats and Species Regulations 2010 (“the Habitats Regulations”). However, the Habitats Directive has considerably elaborated upon and ‘fleshed out’ the requirements of the Bern Convention and other international environmental agreements, such as the 1971 Ramsar Convention on Wetlands (a UK-only agreement). One key example is Article 4.2 of the 1971 Ramsar Convention on Wetlands, which simply states: “Where a Contracting Party in its urgent national interest, deletes or restricts the boundaries of a wetland included in the List, it should as far as possible compensate for any loss of wetland resources, and in particular it should create additional nature reserves for waterfowl and for the protection, either in the same area or elsewhere, of an adequate portion of the original habitat.” This obligation has been fleshed out into a set of procedural requirements under the Habitats Directive and the Habitats Regulations. After Brexit, it may be legally possible to stay compliant with these conventions, but with a different set of procedures and requirements under the preserved Habitats Directive and the converted Habitats Regulations. **In the context of any subsequent revision to current domestic environmental standards we endorse the general principle that any revision be conducted openly and with Parliamentary involvement, oversight and scrutiny.**

Mixed agreements implemented by a combination of different types of measures

- 52 We have identified mixed agreements which are implemented by a combination of different types of measures, both at an EU and a domestic level. At the EU level, the most common implementation of mixed agreements is through a combination of EU regulations and directives, although we noted some agreements implemented by combinations of strategies, guidance documents and decisions. For instance, the Nagoya Protocol is implemented by an EU regulation, the scope of which is clarified for Member States by Commission guidance, and applied domestically by the Nagoya Protocol (Compliance) Regulations 2015. Unpicking precisely which elements of an international obligation is implemented by retained EU legislation, and which is implemented by guidance is beyond the scope of this study, however, we highlight the potential for interaction between the risks associated with different modes of implementation where mixed agreements have been implemented by a combination of EU measures.
- 53 On a domestic level, implementation of obligations originating internationally may have been achieved through non-legislative measures, such as policy statements. For example, paragraph 118 of the National Planning Policy Framework provides protection for wetland sites designated under the Ramsar Convention. In cases such as these an international obligation may be implemented so that it constitutes a material consideration rather than a legislative obligation, which does not create, for instance, an obligation for the international body to be consulted or international guidelines applied⁵². What is more, an international agreement implemented in this way may remain legally ‘unincorporated’, even if it is implemented: this would mean that a claimant could not pray in aid the agreement in domestic courts, because the rights and obligations derived from it would have no

legislative effect⁵³. In analysing the impact of the Withdrawal Bill on achieving full compliance with mixed agreements it will be important to look at the adequacy of implementation through policy statements, and the effect this has on the incorporation of the agreement.

Emerging Issues in UK-only agreements

- 54 Our analysis indicates fewer issues in relation to UK-only international environmental agreements. The UK concluded these agreements itself, either because they were ratified before the EU received the competence to enter into international agreement or because these accords fall outside the EU's competence.
- 55 We have identified a possible issue concerning UK-only agreements that are partly implemented by EU law. Further analysis will be necessary to discern which elements of these agreements are currently implemented by EU legislation in order to ensure that these are properly converted into retained EU law. This is particularly relevant in relation to agreements governing the marine environment, given the negative reaction to EU fisheries law, and is well-illustrated by MARPOL 73/78 (the International Convention for the Prevention of Pollution from Ships). Although this is a UK-only agreement the UK's mode of compliance with MARPOL Annex VI is driven largely by the requirement to comply with EU law. A basic textual analysis has shown that although there are domestic legislative measures which implement MARPOL 73/78, there is also a large amount of EU legislation implementing this agreement.
- 56 Some UK-only agreements remain in force although they have not often been relied upon in recent times, notably because they have been superseded by other legislation. One possible example is the 1964 London Fishing Convention, which has arguably been superseded by the Common Fisheries Policy (CFP), but might have relevance when EU Member States' fishing vessels lose access to UK waters under the CFP. The Secretary of State has given two years notice that the UK would be withdrawing from this agreement in accordance with its terms, albeit three months after the Article 50 notice, so that the Agreement might apply for a period after exit day⁵⁴. We have not excluded the possibility that this situation may occur in relation to other agreements.
- 57 We have also identified international environmental agreements to which the UK might now seek to become party⁵⁵. They include international environmental agreements to which it used to be a party but from which it withdrew when it joined the EU, such as the International Convention for the Conservation of Atlantic Tunas 1966. They might also include international environmental agreements over which the Commission contests competence with Member States, including the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas 1993.

Emerging issues in enforcement of international environmental agreements

58 We have identified three issues in relation to enforcement. Two are internal: these relate to the enforcement of obligations arising from international environmental agreements against the UK, both by international bodies and by domestic courts. These means of enforcement are likely to become increasingly significant after Brexit, once the CJEU and European Commission cease to have a role enforcing relevant EU law obligations. The final issue is external and relates to the enforceability of sanctions against other countries that contravene an agreement.

Enforcement against the UK: limited availability and effectiveness of enforcement mechanisms contained in many international environmental agreements

59 If the UK remains bound by an international environmental agreement but no longer properly implements its obligations under that agreement (either because retained EU is not properly converted or it has amended to as to put the UK in breach of its international obligations) then enforcement mechanisms included in international environmental agreements (including protocols to them, or created under decisions of Meetings of the Parties or Conferences of the Parties) may be a means for those obligations to be enforced. The availability of international enforcement mechanisms is most relevant in relation to mixed agreements which remain wholly or partially in force against the UK, given that the UK's position in relation to UK-only agreements will remain unchanged by Brexit, and enforcement mechanisms under EU-only agreements (and mixed agreements to which the UK does not remain a party) are unlikely to have jurisdiction over the UK. It will therefore be important to first consider jurisdictional constraints on the availability of international enforcement mechanisms

60 Enforcement mechanisms under international environmental agreements vary in the extent and the effectiveness of the actions that can be taken⁵⁶. In many cases parties are required to keep compliance under review (such as the Espoo Convention) and although many have provision for investigation (such as the Bern Convention), most mechanisms emphasise co-operative measures (such as the Montreal Protocol). Where sanctions are available, the enabling power will often not expressly specify the range of measures that can be imposed on a party in non-compliance (LRTAP, the OSPAR Convention), although exceptionally some allow for specific measures such as trade bans as the sanction of last resort (such as CITES).

61 At this stage we have not examined the effectiveness of each mechanism in forensic detail. However, **we recommend that where full and proper implementation of an international environmental agreement is judged to be at high risk, further research should be undertaken into the availability and effectiveness of enforcement mechanisms contained in that agreement.**

Enforcement against the UK: increased reliance on international environmental agreements in proceedings before domestic courts

62 Second, after Brexit there may be potential for international environmental agreements to assume more significance in domestic courts. The Government's present position is that existing judicial review procedures, where the courts are concerned essentially with the legality of government action or inaction rather than the merits of the decision, will remain the core mechanism for allowing the courts to hold the government to account for its legal obligations⁵⁷. The UK courts have been clear that unincorporated international agreements (i.e. those which have not been given legislative effect through primary or secondary legislation) are effectively non-justiciable and the courts cannot give direct effect to them, because that would create rights and obligations under domestic law which Parliament has not conferred ('the constitutional orthodoxy'). The strictness of this dualist system of law was restated recently by the Supreme Court decision in the Miller case⁵⁸. This means that enforcing obligations derived from international agreements which have not been implemented by domestic legislation through the courts will be increasingly difficult.

63 Nevertheless it seems likely that after Brexit more litigants will seek to invoke international environmental agreements in domestic public law proceedings where the UK is in breach of its international obligations as a result of Brexit. As Professor Macrory has argued, the courts may yet develop the tools needed for enforcing provisions of international environmental agreements:

*"But he [Lord Kerr in R(SG), who suggested departing from the constitutional orthodoxy] could be ahead of his time, and how the courts will treat international environmental conventions post Brexit remains an issue of immense importance for the future development of the UK's environmental law."*⁵⁹

64 We note the points raised by James Maurici QC on a number of possible routes for avoiding the constitutional orthodoxy, and using international agreements which have not been incorporated⁶⁰.

- a) First, there is a "strong presumption" in favour of interpreting statute in a way which does not place the UK in breach of its international obligations (although where legislation is clear and unambiguous it must be given effect to, irrespective of any obligations derived from an international agreement).⁶¹
- b) Second, unincorporated international agreements may have a bearing on the development of the common law in that developments of the common law should ordinarily be in harmony with the UK's international obligations. Unincorporated international agreements may therefore be used to resolve ambiguities in the common law, although, again, the common law should not be used to incorporate these agreements through the back door.⁶²
- c) Third, an international agreement can be used in determining the manner in which judicial discretions are to be exercised. Although there are also limits to this (and generally there is no need for the exercise of executive discretion to be compatible with international agreements).⁶³
- d) Fourth, the highly controversial argument that the doctrine of legitimate expectation can generate a right to rely on the provision of an unincorporated international agreement in the interpretation and application of domestic law.⁶⁴
- e) Fifth, in considering human rights, such as those under UN Convention on the Rights of the Child, regard may be had unincorporated agreements.⁶⁵
- f) Sixth, where principles and obligations constitute customary international law ('CIL') then it may be argued that these are to be considered part of domestic law automatically unless they are in conflict with an Act of Parliament.⁶⁶
- g) Seventh, decisions, opinions and recommendations which may be given by the International Court of Justice and a plethora of other bodies and committees, either on reference from domestic courts or by applications made to them.⁶⁷

Enforceability of sanctions against other countries

65 Finally, as discussed in paragraph 49 above, the enforcement mechanisms included in international environmental agreements are reciprocal. After Brexit the UK may lack the legal framework for imposing and implementing sanctions, for example in relation to countries that are in breach of CITES. **We therefore draw attention to the UK's enforcement obligations under international environmental agreements when discussing whether new legal powers are required to maintain our ability to impose, implement and amend sanctions regimes.**

Endnotes

- 1 'Prime Minister: Britain after Brexit: A Vision of a Global Britain', 2 October 2016
- 2 'Exiting the EU next steps: Ministerial statement', 10 October 2016
- 3 'The United Kingdom's exit from, and new partnership with, the European Union' White Paper, published on 2 February 2017 ("the First White Paper"); and 'Legislating for the United Kingdom's withdrawal from the European Union' published on 30 March 2017 ("the Second White Paper"), Cm 9446, 30 March 2017, at paragraph 2.2
- 4 'The United Kingdom's exit from, and new partnership with, the European Union White Paper', Cm 9417, 2 February 2017, at paragraph 2.13
- 5 House of Commons Environmental Audit Committee, 'Oral evidence: The Future of the Natural Environment after the EU Referendum', 25 October 2016, at Q339. The Ramsar Convention is UK-only, although the Berne Convention is a mixed agreement. See also the statement by the Parliamentary Under Secretary of State to the House of Lords Select Committee on the European Union, Energy and Environment Sub-Committee in relation to mixed agreement, quoted at paragraph 40, above
- 6 Department for Exiting the European Union, 'The Repeal Bill: Fact Sheet 8: Environmental Protection', 13 July 2017, at page 2. See also, statements by Parliamentary Under-Secretary at the Department for Exiting the European Union on the first day of the Second Reading of the Withdrawal Bill to, "put on the record again that we [the Government] will uphold all our commitments to international law in relation to the environment", Hansard HC Deb 7 September 2017, vol 628, cols 289
- 7 House of Lords Select Committee on the European Union, Energy and Environment Sub-Committee, 'Brexit: Environment and Climate Change', 4 February 2017, paragraph 50
- 8 'Legislating for the United Kingdom's withdrawal from the European Union', Cm 9446, 30 March 2017, at paragraph 1.24. Broadly speaking this will be the general effect of the Withdrawal Bill, if it is passed as it was introduced in July 2017
- 9 House of Lords Select Committee on the European Union, Energy and Environment Sub-Committee, 'Brexit: Environment and Climate Change: Oral and written evidence', page 156
- 10 The phrase 'retained EU law', is used in this report as it is in the Withdrawal Bill to refer to the collective body of converted EU law and preserved domestic law, see table in House of Commons, 'Explanatory Notes to the European Union (Withdrawal) Bill', 13 July 2017, page 9
- 11 House of Commons Library Briefing Paper Number 7850, 'Legislating for Brexit: EU External Agreements', 5 January 2017, at paragraph 1.2, page 5
- 12 i.e. Case C-25/94 Commission of the European Communities v Council of the European Union regarding the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas 1993, or recently Opinion 2/15 on the EU's powers to conclude the EU-Singapore Free Trade Agreement
- 13 House of Commons Library Briefing Paper Number 7192, 'EU External Agreements: EU and UK procedures', 28 March 2016, at page 11
- 14 see paragraphs 39 and 42, above
- 15 EU-derived domestic legislation will be retained under clause 2 of the Withdrawal Bill, and direct EU legislation will be retained under clause 3 of the Bill, subject to exceptions
- 16 see paragraph 62, above
- 17 On which, see 'International Policy', by Prof Sebastian Oberthur in Burns, C., et al (2016) 'The EU Referendum and the UK Environment: An Expert Review. How has EU membership affected the UK and what might change in the event of a vote to Remain or Leave?'
- 18 E.g. compare Scotland Act 1998, sections 57 and 58
- 19 'Brexit and International Law', Jed Odermatt, Blog of the European Journal of International Law
- 20 'Preparing for Brexit: the Legislative Options' by Richard Gordon QC and Tom Pascoe for the Constitution Society, 5 April 2017, at page 15; see also comment on the interaction between the Vienna Convention and Article 216(2) TFEU in Guillaume Van der Loo and Steven Blockmans, 'CEPS Commentary: The Impact of Brexit on the EU's International Agreements', 15 June 2016
- 21 House of Commons Library Briefing Paper Number 7850, 'Legislating for Brexit: EU External Agreement', 5 January 2017, at page 6
- 22 The 'negative resolution procedure'. Further provisions apply if either House resolve that the treaty should not be satisfied. For discussion of the background and scope of the 2010 Act (but not the implications of Brexit on international agreements) see House of Commons Library Briefing Paper Number 5855, 'Parliament's role in ratifying treaties', 17 February 2017
- 23 See House of Commons Library Briefing Paper Number 5855, 'Parliament's role in ratifying treaties', 17 February 2017 which states at 5.1 that "[t]here is no indication in the 2010 Act of what might constitute an exceptional case. Emergencies are likely to be the main examples, but the Government is free to designate anything an exceptional case."

- 24 See Article 15 of the Vienna Convention on the Law of Treaties
- 25 House of Commons European Scrutiny Committee, 'Thirty-second Report of Session 2016–17', 28 February 2017. At page 46, paragraphs 9.8 to 9.9. See also, letter from Dr Thérèse Coffey MP, Parliamentary Under Secretary of State for Defra to Sir William Cash MP, Chairman of the European Scrutiny Committee, 20 February 2017
- 26 Note that this speech was written before the referendum result was known, but delivered very shortly after it
- 27 See 'International law in domestic practice: advice for practitioners on how international and comparative law arises in domestic case law' by James Maurici QC in *Environmental Law & Management* (2016) 28 ELM 155, at page 158, referencing in particular, Case C-265/03 *Simutenkov v Ministerio de Educación y Cultura* [2005] ECR I-2579 at para 21 and Case C-372/06 *Asda Stores Ltd v Revenue and Customs Comrs* [2007] ECR I-11223, para 82
- 28 [2004] 3 C.M.L.R. 19
- 29 see discussion of the the constitutional orthodoxy at paragraph 62, above
- 30 On amendments to retained EU law, see paragraphs 34-35, above
- 31 A similar question arises in relation to the agreement amending Articles 25 and 26 of the Water Convention. On the ambiguities as to the status of mixed agreements, see paragraphs 38-43, above
- 32 House of Commons, 'European Union (Withdrawal) Bill – Explanatory Notes', 13 July 2017, at page 9
- 33 Environmental Audit Committee, 'The Future of the Natural Environment after the EU Referendum', 4 January 2017, at para 34. See also the conclusion of the the conclusion of the Joint Committee on Human Rights in 'The Human Rights Implications of Brexit' that "the Government must resist the temptation to allow laws relating to fundamental rights to be repealed by secondary legislation for reasons of expediency. If rights are to be changed there should be an opportunity for both Houses to seek both to amend and to vote on such changes" (quoted in the Legal Education Foundation, 'Briefing Paper: the Repeal Bill')
- 34 See, Department for Exiting the European Union, 'Memorandum concerning the Delegated Powers in the Bill for the Delegated Powers and Regulatory Reform Committee', 13 July 2017
- 35 clauses 7(4) and 8(2)
- 36 See Department for Exiting the European Union, 'Memorandum concerning the Delegated Powers in the Bill for the Delegated Powers and Regulatory Reform Committee', 13 July 2017, paragraphs 37 to 44
- 37 See The Hansard Society, 'The European Union (Withdrawal) Bill – initial reflections on the Bill's delegated powers and delegated legislation', 18 July 2017; and The Hansard Society, Written Evidence Submitted to the House of Commons Procedure Committee (GRB 032), 27 April 2017
- 38 UKELA, 'Brexit and Environmental Law: Enforcement and Political Accountability Issues', July 2017
- 39 House of Lords Select Committee on the European Union, Energy and Environment Sub-Committee, 'Brexit: Environment and Climate Change: Oral and written evidence', pages 155-156. The article referred to is 'Brexit unlikely to give UK free rein over green laws', *ENDs Report* 499, September 2016
- 40 House of Commons Library Briefing Paper Number 7850, 'Legislating for Brexit: EU External Agreement', 5 January 2017, at page 3
- 41 CEPS Commentary, 'The Impact of Brexit on the EU's International Agreements' by Guillaume Van der Loo and Steven Blockmans. 15 July 2016. The authors analysis suggests that the UK remaining a contracting party to a mixed agreement would require a legal instrument (such as a protocol) that would have to be ratified by the EU27, the UK as well as third parties, whether the UK were to be removed itself from, or remain party to, a mixed agreement. They also recognise the complication of 'competence delimitation', noted at paragraphs 12-14, above. If they are correct in their analysis then any analysis of the post-Brexit status of mixed agreements is further complicated, not least because "in order to extract itself from a mixed agreement, the UK will need to repeal its approval act that ratified the agreement", and this repeal may impact the implementation of the obligations contained within that agreement. Note however that arguably the authors have conflated international agreements with trade agreement in their analysis.
- 42 House of Lords Select Committee on the European Union, Energy and Environment Sub-Committee, 'Brexit: Environment and Climate Change', 4 February 2017, paragraphs 47-52
- 43 *ibid*, paragraph 48
- 44 Professor Macrory, 'Brexit unlikely to give UK free rein over green laws', *ENDs Report* 499, September 2016. See Article 62 of the 1969 Vienna Convention on the Law of Treaties
- 45 See paragraphs 20ff, above
- 46 See, for instance, Commission Regulation (EU) 2017/160 of 20 January 2017 amending Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein
- 47 Regulation 2(5)(a) of the The Control of Trade in Endangered Species (Enforcement) Regulations 1997 (as amended by the Control of Trade in Endangered Species (Enforcement) (Amendment) Regulations 2009/1773 reg.2(b)) states that "any reference to the Principal Regulation is a reference to the Principal Regulation as amended from time to time"

- 48 See Schedule 8, Part 1, paragraphs 1(1) and (2). A similar point was made on 7 September 2017 in a statement by Andrew Langdon QC, Chair of the Bar who said: “by taking a ‘snap-shot’ of EU law and adopting it into UK statute, the [Withdrawal] Bill offers no mechanism for the UK to keep pace with international conventions and agreements. Our laws may quickly become out-of-date and that could put the UK in non-compliance with its international obligations.”
- 49 Clause 8(4)
- 50 HM Government, ‘Public consultation on the United Kingdom’s future legal framework for imposing and implementing sanctions: Government response’, August 2017 (see here for the White Paper)
- 51 *ibid*, at [1.11]
- 52 See, for instance, the discussion of the UNESCO World Heritage Convention 1972 through Planning Policy Statement No 6 in Re National Trust’s Application for Judicial Review [2013] NIQB 60, at paragraphs 10-12 and 30-37
- 53 On the difference between ‘incorporation’ and ‘implementation’ see paragraph 62, above
- 54 Defra Press release: ‘UK takes key step towards fair new fishing policy after Brexit’, 2 July 2017
- 55 On the process for ratification, see paragraph 22, above
- 56 See, Legal Response Initiative, ‘Sanctions and penalties in environmental treaties’, 19 July 2010
- 57 See, response of the Parliamentary Under-Secretary of State for Defra, in response to debate of the European Union Committee report on ‘Brexit: environment and climate change’, House of Lords Hansard 23 March 2017, col 343; see also UKELA ‘Brexit and Environmental Law: Enforcement and Political Accountability Issues’ (July 2017) at para 25
- 58 R (Miller) v Secretary of State for Exiting the European Union [2017] UKSC 5; [2017] 2 W.L.R. 583
- 59 Professor Macrory, ‘Brexit unlikely to give UK free rein over green laws’, ENDS Report 499, September 2016 (note, this article was published before the Miller judgment)
- 60 ‘International law in domestic practice: advice for practitioners on how international and comparative law arises in domestic case law’ by James Maurici QC in *Environmental Law & Management* (2016) 28 ELM 155. Note the subtle but important difference between ‘incorporation’ and ‘implementation’: a treaty is incorporated in the UK when it is given legislative effect through primary or secondary legislation; implementation can occur through a number of different measures, both on a European level (and given domestic effect through the ECA and the direct effect of EU law) and on a domestic level, through legislative and non-legislative instruments. Therefore, all incorporated treaties will have been implemented, but implementation of a treaty (particularly through policy) does not necessarily mean that it has been incorporated
- 61 *ibid*, at page 156, referring to Assange v Swedish Prosecution Authority [2012] 2 AC 471, per Lord Dyson at para 122 and Salomon v Commissioners for Customs & Excise [1967] 2 QB 116 at 143
- 62 *ibid*, at page 156. Referring to R v Lyons [2003] 1 AC 976, per Lord Bingham at para 13; A v Secretary of State for the Home Department (No 2) [2006] 2 AC 221, per Lord Bingham at para 27; Derbyshire County Council v Times Newspapers Ltd [1993] AC 534; and A v Secretary of State for the Home Department (No 2) [2005] 1 WLR 414, per Laws LJ at paras 266–267 and Neuberger LJ at para 434
- 63 *ibid*, at page 157, referring to Rantzen v Mirror Group [1994] QB 670, at 690G–692H; and R v Secretary of State for the Home Department, ex p Brind [1991] AC 696, per Lord Bridge at 747H–748A
- 64 *ibid*, at page 157, referring to R (SG) v Secretary of State for Work and Pensions [2015] 1 W.L.R. 1449, per Lord Kerr at para 256
- 65 *ibid*, at page 157–158, referring to, *inter alia*, R (SG) v Secretary of State for Work and Pensions
- 66 *ibid*, at page 158–160, see in particular R (Keyu) v Secretary of State for Foreign and Commonwealth Affairs [2015] 3 W.L.R. 1665, per Lord Mance at paras 144ff, and on the difficulty of defining whether something is CIL R (European Roma Rights Centre and Others) v Immigration Officer at Prague Airport and Another (United Nations High Commissioner for Refugees intervening) [2005] 2 A.C. 116, per Lord Bingham at paras 23 ff
- 67 *ibid*, at page 160–162

Annex (England)

Version 1 (September 2017)

Legend

Green cells	Mixed agreements
Orange cells	EU-only agreements
"NYIF"	Not yet in force
"EIF"	Entry into force

Note:

All domestic legislation refers to legislation as amended.
Instruments amending domestic regulations have generally been omitted.
Main implementing measures (where identified) are in **bold**.

NATURE CONSERVATION

Convention	Competency	Implementation	Enforcement
1 The Antarctic Treaty 1959	UK signed 1959, ratified 1960, EIF 1961 UK ONLY	Primary legislation: <ul style="list-style-type: none"> • Antarctic Treaty Act 1967 (partly repealed) • Antarctic Act 1994 • Antarctic Act 2013 	
2 Convention on Wetlands of International Importance especially as Waterfowl Habitat 1971 ("the Ramsar Convention")	UK signed 1973, ratified and EIF 1976 UK ONLY	Primary legislation: <ul style="list-style-type: none"> • Wildlife & Countryside Act 1981 (as amended) • Marine and Coastal Access Act 2009 Secondary legislation: <ul style="list-style-type: none"> • Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017/580 • Environmental Permitting (England and Wales) Regulations 2016/1154 • Keeping and Introduction of Fish (England and River Esk Catchment Area) Regulations 2015/10 • Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014/1686 • Marine Licensing (Exempted Activities) Order 2011/409 • Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009/2264 • Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999/2228 • Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999/1672 • Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations SI 1999/367 	There is a requirement for contracting parties to report on their implementation of the Convention, but the Convention does not specifically address enforcement measures. Less formal approach adopted under auspices of the Montreux Record (established by Recommendation 4.8 at the 1990 COP) where Parties can voluntarily list Ramsar sites that are facing particular challenges. See also: synergies between the Ramsar Convention and other agreements

		<p>Non-legislative measures:</p> <ul style="list-style-type: none"> • NPPF Chapter 11 (“Conserving and enhancing the natural environment”) at paragraphs 109 to 125 • PINS Advice note ten: Habitats Regulations Assessment relevant to nationally significant infrastructure projects. • ODPM Circular 06/2005: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System 	
<p>3 Convention Concerning the Protection of the World Cultural and Natural Heritage 1972 (“UNESCO World Heritage Convention”)</p>	<p>UK ratified and EIF 1984</p> <p>UK ONLY</p>	<p>Primary legislation:</p> <ul style="list-style-type: none"> • Harbours Act 1964 • Highways Act 1980 <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Town and Country Planning (Environmental Impact Assessment) Regulations 2017/571 • Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017/580 • Town and Country Planning (Brownfield Land Register) Regulations 2017/403 • Onshore Hydraulic Fracturing (Protected Areas) Regulations 2016/384 • Town and Country Planning (General Permitted Development) (England) Order 2015/596 • Town and Country Planning (Development Management Procedure) (England) Order 2015/595 • Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013/2140 • Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009/2264 • Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006/1466 	<p>Not a self-executing treaty. Convention does not provide a mechanism of settlement for disputes.</p>

		<ul style="list-style-type: none"> • Harbour Works (Environmental Impact Assessment) Regulations 1999/3445 • Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999/2228 • Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999/1672 • Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations 1999/367 <p>Non-legislative measures:</p> <ul style="list-style-type: none"> • Circular 07/2009 Protection of World Heritage Sites (withdrawn March 2014) • PPG: Conserving and enhancing the historic environment 	
4 Convention for the Conservation of Antarctic Seals 1972	UK signed 1972, ratified 1974 and EIF 1978 UK ONLY	<i>None found</i>	<i>None found</i>
5 Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973 ("CITES")	UK signed 1973, ratified and EIF 1976 (and accepted the Bonn Amendment in 1980 and the Gaborone Amendment in 1985) EU joined in 2015 and signed both amendments. MIXED AGREEMENT Council Decision (EU) 2015/451 of 6 March	EU law: <ul style="list-style-type: none"> • Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein ("CITES Basic Regulation") • Commission Regulation (EC) No 865/2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 (as amended) ("CITES Implementing Regulations") • Commission Implementing Regulation (EU) No 792/2012 of 23 August 2012 laying down rules for the design of permits, certificates and other documents provided for in Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating the trade therein and amending Regulation 	The CITES Convention text does not include specific enforcement provisions, sanctions or penalties. The COP has adopted guidelines which provide for escalation up to and including trade bans. <ul style="list-style-type: none"> • Article XIII provides a basic escalation process. Where non-implementation by Parties is suspected, this is communicated; facts are returned and an inquiry may be held; the results of the inquiry are communicated to the CITES COP, who may make whatever recommendations they feel appropriate. • The CITES COP adopted a Guide to CITES compliance procedures, which is a non-legally binding statement which

	<p>2015 concerning the accession of the European Union to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).</p>	<p>(EC) No 865/2006 (as amended) ("CITES Permit Regulations")</p> <ul style="list-style-type: none"> • Commission Recommendation No 2007/425/EC identifying a set of actions for the enforcement of Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein ("EU Enforcement Action Plan") <p>Primary legislation:</p> <ul style="list-style-type: none"> • Wildlife and Countryside Act 1981 • Customs & Excise Management Act 1979 • Endangered Species (Import & Export) Act 1976 <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Wildlife and Countryside (Registration, Ringing and Marking of Certain Captive Birds) (England) Regulations 2015/618 • Animal Health (Miscellaneous Fees) Regulations 2013/1240 • Control of Trade in Endangered Species (Fees) Regulations 2009/496 • Legislative and Regulatory Reform (Regulatory Functions) Order 2007/3544 • Control of Trade in Endangered Species (Enforcement) Regulations 1997/1372 • Control of Trade in Endangered Species (Designation of Ports of Entry) Regulations 1985/1154 • Wildlife and Countryside (Registration and Ringing of Certain Captive Birds) Regulations 1982/1221 <p>Non-legislative measures:</p> <ul style="list-style-type: none"> • Endangered species: imports and exports and commercial use guidance 	<p>emphasises co-operation between Parties and between the Parties, the CITES Secretariat and other CITES Committees.</p> <ul style="list-style-type: none"> • The Guide also sets out that if a Party fails to take sufficient remedial action within a reasonable time limit then the CITES Secretariat shall bring the matter to the attention of the CITES Standing Committee. • In exceptional circumstances and after consultation with the Party, the CITES Standing Committee may take measures aimed at achieving compliance. A non-exhaustive list of facilitative and cautionary measures, up to and including recommending to the CITES CoP that trade in CITES-listed species with the Party be suspended in the event of persistent unresolved non-compliance which the Party shows no intention of resolving. • Trade bans with respect to non-compliant Parties, with respect to particular species or with the Party in relation to all CITES-listed species, are the sanction of last resort but have been used in a number of cases.
--	--	--	--

<p>6 Convention on the Conservation of Migratory Species of Wild Animals 1979 ("Bonn/CMS Convention")¹</p>	<p>UK signed in 1979 and ratified in 1985.</p> <p>EU became a party in 1983.</p> <p>MIXED AGREEMENT</p> <p>Council Decision 82/461/EEC of 24 June 1982 on the conclusion of the Convention on the conservation of migratory species of wild animals (Bonn Convention).</p> <p>Council Decision 98/145/EC of 12 February 1998 on the approval, on behalf of the European Community, of the amendments to Appendices I and II to the Bonn Convention on the conservation of migratory species of wild animals as decided by the fifth meeting of the Conference of the parties to the Convention</p>	<p>CMS is a framework convention, urges Parties to conclude daughter agreements and provides guidance about the provisions that should be include. Daughter agreements may be legally binding 'agreements' or less formal 'MOUs' and stand along 'Action Plans'.</p> <p>EU law (see individual instrument):</p> <ul style="list-style-type: none"> • No EU Regulations or Directives directly or expressly implement the CMS Convention at EU level, see individual CMS instruments. <p>The UK has currently ratified four legally binding Agreements under the Convention:</p> <ul style="list-style-type: none"> • Agreement on the Conservation of Populations of European Bats (EUROBATS); • African-Eurasian Migratory Waterbird Agreement (AEWA); • Agreement on the Conservation of Small Cetaceans in the Baltic, North-East Atlantic, Irish and North Seas (ASCOBANS), and • Agreement on the Conservation of Albatrosses and Petrels (ACAP). <p>The UK has also four Memorandi of Understanding:</p> <ul style="list-style-type: none"> • MOU on the Conservation and Management of Marine Turtles and their Habitats of the Indian Ocean, in respect of the British Indian Ocean Territory; • MOU on the Aquatic Warbler; • MOU concerning the Conservation of Migratory Birds of Prey in Africa and Eurasia; and • MOU for the Conservation of Cetaceans and their Habitats in the Pacific Islands Region in respect of Pitcairn. 	<p>The Convention does not specifically address enforcement measures.</p> <ul style="list-style-type: none"> • Require States to prepare national reports on the implementation of the Convention. • In November 2014, at COP 11, the parties decided to consider establishing a review mechanism (resolution 11.7). • No non-compliance procedures or formal non-compliance response mechanisms found. • Article 13 refers disputes between parties to the Permanent Court of Arbitration. This will only occur if the states involved agree for the dispute to be submitting to a judicial dispute settlement procedure. <p>In many ways CMS acts as a framework Convention, urges Parties to conclude daughter agreements and provides guidance about the provisions that should be include. Daughter agreements may be legally binding 'agreements' or less formal 'MOUs'.</p>
--	---	--	--

¹ Instruments entered into under the CMS Convention are identified (below) with an asterisk

		<p>Note that the UK National Report to CMS COP10 lists the following as implementing measures:</p> <ul style="list-style-type: none"> • Whaling Industry (Regulations) Act 1934 • National Parks and Access to the Countryside Act 1946 • Fishery Limits Acts 1964 • Countryside Act 1968 • Nature Conservancy Council Act 1973 • Endangered Species (Import and Export) Act 1976 • Fisheries Act 1981 • Wildlife and Countryside Act 1981 (as amended) • Wildlife and Countryside Act 1981 (Variation of Schedules) Order 1988 (etc.) • Environmental Protection Act 1990 • Conservation (Natural Habitats, &c.) Regulations 1994 • The Environmental Regulations (Restriction on Use of Lead Shot) (England) Regulations 1999 • Environmental Impact Assessment Regulations 1999 • Countryside and Rights of Way Act 2000 • Environmental Assessment of Plans and Programmes Regulations 2004 • Natural Environment and Rural Communities Act 2006 • The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 • Marine and Coastal Access Act 2009 • Conservation (Natural Habitats, &c.) Regulations 2010 (as amended) 	
<p>7 Convention on the Conservation of European Wildlife and Natural Habitats 1979 ("the Berne Convention")</p>	<p>UK signed 1979, ratified and EIF 1982.</p> <p>EU signed 1979, ratified and EIF 1982</p> <p>MIXED AGREEMENT</p>	<p>EU law:</p> <ul style="list-style-type: none"> • Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds • Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora 	<p>There are no remedies/penalties for breaching the provisions of the Convention.</p> <p>The only compulsory type of reporting under the Convention is the system of 'biennial reports', which all Parties making exceptions to the provisions of the Convention (in compliance with</p>

	<p>Council Decision of 3 December 1981 concerning the conclusion of the Convention on the conservation of European wildlife and natural habitats</p> <p>Council Decision of 21 December 1998 concerning the approval, on behalf of the Community, of amendments to Appendices II and III to the Berne Convention on the conservation of European wildlife and natural habitats adopted at the 17th meeting of the Convention's Standing Committee</p>	<p>Primary legislation:</p> <ul style="list-style-type: none"> Wildlife and Countryside Act 1981 <p>Secondary legislation:</p> <ul style="list-style-type: none"> Conservation of Habitats and Species Regulations 2010 Offshore Marine Conservation (Natural Habitats) Regulations 2007 <p><i>Note that UK legislation implements the Birds and Habitats Directives; it does not reference the Bern Convention. The JNCC states that the obligations of the Convention is transposed into national law by means of WCA 1981. However, the only references conventions in that Act, are references to Ramsar. Query whether the substantive obligations under the Bern Convention are implemented by that Act without reference to the Birds and Habitats Directives.</i></p>	<p>the strict terms and conditions spelt out in Article 9) must submit to the Secretariat every two years.</p> <p>Investigation of compliance with Convention obligations is undertaken through a process of 'case files' administered by the Standing Committee of the Convention. Following complaints by third parties to the Standing Committee, a case file can be opened, analysing legal and policy reports prepared by independent experts. The Groups of Experts set under the Convention also monitor the implementation of both the Treaty and the Recommendations adopted by the Standing Committee. These concern the conservation status of species or habitats, or specific conservation challenges.</p>
<p>8 Protocol concerning specially Protected Areas and Wildlife to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region 1990</p>	<p>UK signed 1990, Action date 1990</p> <p>UK ONLY[?]</p>		

<p>9 Agreement on the Conservation of Populations of European Bats 1991 ("EUROBATS") *</p>	<p>UK signed 1991, ratified 1992, EIF 1994. Not EU</p> <p>UK ONLY</p>	<p>Primary legislation:</p> <ul style="list-style-type: none"> Wildlife & Countryside Act 1981 (protects all bats and their roosts in the UK) <p>Secondary legislation:</p> <ul style="list-style-type: none"> Conservation Habitats and species Regulations 2010 <i>(Note, that this is indirect: certain UK bat species are also listed on Annex II and all are listed on Annex IV of the Habitats Directive, which is transposed into national law by means of these regulations. The UK has also designated maternity and hibernacula areas as Special Areas of Conservation (SACs) under the Habitats Directive for those species listed Annex II)</i> 	<p>The EUROBATS Action Plan and Secretariat were established by the First Session of the Meeting of Parties in 1995.</p> <p>No compliance or enforcement mechanisms found</p>
<p>10 Protocol to the Antarctic Treaty on Environmental Protection 1991</p>	<p>UK signed 1991, ratified 1995, EIF 1998.</p> <p>UK ONLY</p>	<p>Primary legislation:</p> <ul style="list-style-type: none"> Antarctic Act 1994 Antarctic Act 2013 	<p>No formal enforcement powers.</p> <p>Art 12(1): Committee may provide advice and adopt recommendations, to be drawn upon at the Antarctic Treaty Consultation Meetings.</p>
<p>11 Agreement on the Conservation of Small Cetaceans in the Baltic, North East Atlantic, Irish and North Seas ("ASCOBANS") *</p>	<p>UK signed 1992, ratified 1993 and EIF 1994</p> <p>EU signed 1992 but did not ratify</p> <p>UK ONLY</p>	<p>Primary legislation:</p> <ul style="list-style-type: none"> Wildlife and Countryside Act 1981 <p>Secondary legislation:</p> <ul style="list-style-type: none"> Marine offshore Regulations 2007 Conservation of Habitats and species Regulations 2010 <p><i>Note: ASCOBANS is applied in all UK waters in accordance with existing statutory protection for cetacean species.</i></p>	

<p>12 Convention on Biological Diversity 1992 ("CBD" or Rio Convention)</p>	<p>UK signed 1992, ratified and EIF 1994</p> <p>The European Union signed 1992, accepted/approved 1993 and EIF 1994.</p> <p>MIXED AGREEMENT</p> <p><u>Declaration of EU Competency</u></p> <p>Council Decision of 25 October 1993 concerning the conclusion of the Convention on Biological Diversity</p>	<p>EU law:</p> <ul style="list-style-type: none"> • No regulations or directives directly implementing the CBD • EU 2020 Biodiversity Strategy. Legislation in pursuit of achieving this strategy includes: <ul style="list-style-type: none"> ◦ The Habitats Directive ◦ The Birds Directive ◦ Water Framework Directive (to increase the contribution of agriculture and forestry to maintaining and enhancing biodiversity) ◦ Marine Strategy Framework Directive 2008 ◦ Regulation 1143/2014 on Invasive Alien Species (to combat Invasive Alien Species) <p>Primary legislation:</p> <ul style="list-style-type: none"> • Natural Environment and Rural Communities Act 2006 • Environmental Protection Act 1990 <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Infrastructure Planning (Decisions) Regulations 2010/305 <p>Non-legislative measures:</p> <ul style="list-style-type: none"> • UK Biodiversity Action Plan • UK Post-2010 Biodiversity Framework • UK Post-2010 Biodiversity Framework: Implementation Plan' <p><i>Note: domestic legislation listed refers straight to the Convention, not to EU legislation..</i></p>	<p>CBD Convention text does not include specific enforcement provisions, sanctions or penalties.</p> <p>Article 27 provides for dispute resolution between Parties as to the application or interpretation of the Convention.</p>
--	--	--	---

<p>13 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas 1993</p>	<p>EU Ratified (accepted/approved) in 1993, EIF 2003</p> <p>No EU state has signed. Commission challenged Council decision that agreement matters of shared competence under section 173 of the EC Treaty CJEU agreed and decision annulled (<i>Case C-25/94 Commission of the European Communities v Council of the European Union</i>).</p> <p>EU ONLY</p> <p>Council Decision of 25 June 1996 on acceptance by the Community of the Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas</p>	<p>EU law:</p> <ul style="list-style-type: none"> • Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy • Regulation (EU) No 640/2010 of the European Parliament and of the Council of 7 July 2010 establishing a catch documentation programme for bluefin tuna <i>Thunnus thynnus</i> and amending Council Regulation (EC) No 1984/2003 • Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing • Commission Regulation (EC) No 839/2002 <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Fishing Boats Designation (England) Order 2015/648 • Sea Fishing (Enforcement and Miscellaneous Provisions) Order 2015/191 • Tope (Prohibition of Fishing) Order 2008/691 • Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007/1842 <p><i>Note: domestic legislation listed refers to EU legislation, not to the agreement. No domestic legislation found referring to the agreement</i></p> <p><i>Note: agreement adopted within the framework of the Food and Agriculture Organisation.</i></p>	<p>Annex IX sets out escalating means of settling disputes on, <i>inter alia</i>, the application of this agreement: first, between parties; second by negotiation, mediation, etc., and; third by referred for settlement to the International Court of Justice, to the International Tribunal for the Law of the Sea or to arbitration.</p>
---	---	--	---

<p>14 United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa 1994 ("UNCCD")</p>	<p>UK signed 1994, ratified and EIF 1996</p> <p>EU signed 1994, accession and EIF 1998</p> <p>MIXED AGREEMENT</p> <p><u>EU Competency Declaration</u></p> <p>98/216/EC: Council Decision of 9 March 1998 on the conclusion, on behalf of the European Community, of the United Nations Convention to combat desertification in countries seriously affected by drought and/or desertification, particularly in Africa</p>	<p>No implementing legislation found, either domestically or from EU</p>	<p>None found</p>
<p>15 Agreement on the Conservation of African-Eurasian Migratory Waterbirds 1995 ("AEWA") *</p>	<p>UK signed 1996, ratified and EIF 1999</p> <p>EU signed 1997 EIF 2005</p> <p>MIXED AGREEMENT</p> <p>Council Decision 2006/871/EC of 18 July 2005 on the conclusion on behalf of the European Community of the Agreement on the Conservation of African-</p>	<p>EU law:</p> <ul style="list-style-type: none"> • Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds <p>Primary legislation:</p> <ul style="list-style-type: none"> • Wildlife and Countryside Act 1981 <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Conservation of Habitats and species Regulations 2010 • Offshore Marine Conservation (Natural Habitats) Regulations 2007 	<p><i>Enforcement under CMS (or not)?</i></p>

	Eurasian Migratory Waterbirds	<p>Non-legislative measures:</p> <ul style="list-style-type: none"> • UK implementation plan published • National bird monitoring schemes (such as the Wetland Bird Survey, the Breeding Bird Survey and Rare Breeding Birds Panel) • UK Biodiversity Action Plan (Note: although no longer active, UK BAP summarises desirable conservation actions for many) • AEWA-listed waterbirds <p><i>Note: see also, implementation of the Ramsar Convention</i></p>	
16 The Cartagena Protocol on Biosafety to the Convention on Biological Diversity 2000	<p>UK signed 2000, ratified 2003 and EIF 2004</p> <p>EU signed 2000, approved 2002, and EIF 2003</p> <p>MIXED AGREEMENT</p> <p><u>EU Competence Declaration</u></p> <p>Council Decision of 25 June 2002 concerning the conclusion, on behalf of the European Community, of the Cartagena Protocol on Biosafety</p>	<p>EU law:</p> <ul style="list-style-type: none"> • Commission Implementing Regulation (EU) No 503/2013 of 3 April 2013 on applications for authorisation of genetically modified food and feed in accordance with Regulation (EC) No 1829/2003 of the European Parliament and of the Council and amending Commission Regulations (EC) No 641/2004 and (EC) No 1981/2006 • Commission Regulation (EU) No 619/2011 of 24 June 2011 laying down the methods of sampling and analysis for the official control of feed as regards presence of genetically modified material for which an authorisation procedure is pending or the authorisation of which has expired • Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage • Commission Regulation (EC) No 641/2004 of 6 April 2004 on detailed rules for the implementation of Regulation (EC) No 1829/2003 of the European Parliament and of the Council as regards the application for the authorisation of new genetically modified food 	<p>Article 34 of the Cartagena Protocol provided for a 'CBD CoP MoP' to be set up to consider and approve co-operative procedures and institutional mechanisms to promote compliance with the Protocol and address cases of non-compliance.</p> <p>This adopted a decision including measures for addressing non-compliance. Under this the Compliance Committee can make a reference to the CBD CoP MoP, who may in turn:</p> <ul style="list-style-type: none"> • issue a caution; • request publication of non-compliance in the Biosafety Clearing-House; • in cases of repeated non-compliance taking such measures as may be decided by the CBD CoP MoP.

		<p>and feed, the notification of existing products and adventitious or technically unavoidable presence of genetically modified material which has benefited from a favourable risk evaluation</p> <ul style="list-style-type: none"> • Commission Regulation (EC) No 65/2004 of 14 January 2004 establishing a system for the development and assignment of unique identifiers for genetically modified organisms • Regulation (EC) No 1946/2003 of the European Parliament and of the Council of 15 July 2003 on transboundary movements of genetically modified organisms • Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed • Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC. <p>Primary legislation:</p> <ul style="list-style-type: none"> • Plant Varieties Act 1997 <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Animal Feed (Hygiene, Sampling etc. and Enforcement) (England) Regulations 2015/454 • Genetically Modified Organisms (Contained Use) Regulations 2014/1663 • Genetically Modified Organisms (Transboundary Movements) (England) Regulations 2004/2692 • Seeds (National Lists of Varieties) Regulations 2001/3510 • Plant Breeders' Rights Regulations 1998/1027 • Seeds (National Lists of Varieties) (Fees) Regulations 1994/676 	
--	--	---	--

17 Agreement on the Conservation of Albatrosses and Petrels 2001	UK signed 2001, ratified and EIF 2004 No EU UK ONLY	None found	
18 International Treaty on Plant Genetic Resources for Food and Agriculture 2001 ("ITPGRFA")	UK signed 2002, ratified and EIF 2004 EU signed 2002, approved and EIF 2004 MIXED AGREEMENT <u>Declaration of EU Competence</u> Council decision of 24 February 2004 concerning the conclusion, on behalf of the European Community, of the International Treaty on Plant Genetic Resources for Food and Agriculture	EU law: <ul style="list-style-type: none"> Regulation (EU) No 511/2014 of the European Parliament and of the Council of 16 April 2014 on compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union Council Regulation (EC) No 1590/2004 of 26 April 2004 establishing a Community programme on the conservation, characterisation, collection and utilisation of genetic resources in agriculture Council Regulation (EC) No 870/2004 of 24 April 2004 establishing a Community programme on the conservation, characterisation, collection and utilisation of genetic resources in agriculture Secondary legislation: <ul style="list-style-type: none"> Nagoya Protocol (Compliance) Regulations 2015/821 	
19 The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity 2010 ("The Nagoya Protocol")	UK signed in 2011, ratified in 2016 and became a party in 2016. EU Signed in 2011, approved in 2014 and became a party in 2014 MIXED AGREEMENT	EU law: <ul style="list-style-type: none"> Regulation (EU) No 511/2014 of the European Parliament and of the Council of 16 April 2014 on compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union 	At the first COP-MOP, the Parties to the Protocol adopted compliance procedures and mechanisms and established a Compliance Committee (decision NP-1/4). Section F of Decision NP-1/4 outlines measures to promote compliance and address cases of non-compliance.

	<p>Council Decision of 14 April 2014 on the conclusion, on behalf of the European Union, of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity</p>	<p>EU non-legislative measures:</p> <ul style="list-style-type: none">• Guidance document on the scope of application and core obligations of Regulation (EU) No 511/2014 of the European Parliament and of the Council on the compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation in the Union <p>Secondary legislation:</p> <ul style="list-style-type: none">• Nagoya Protocol (Compliance) Regulations 2015/821	
--	--	--	--

ATMOSPHERIC EMISSIONS

Convention	Competency	Implementation	Enforcement
<p>20 Vienna Convention for the Protection of the Ozone Layer 1985</p>	<p>EU signed 1985, ratified 1988 and EIF 1989</p> <p>UK signed 1985, ratified 1987 and EIF 1988</p> <p>MIXED AGREEMENT</p> <p><u>EU Declaration of Competence</u></p> <p>Council Decision of 14 October 1988 concerning the conclusion of the Vienna Convention for the protection of the ozone layer and the Montreal Protocol on substances that deplete the ozone layer</p>	<p>EU law:</p> <ul style="list-style-type: none"> • Regulation (EU) No 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change • Commission Regulation (EU) 537/2011 on mechanism for the allocation of quantities of controlled substances allowed for laboratory and analytical uses • Commission Regulation (EU) No 291/2011 on essential uses of controlled substances other than hydrochlorofluorocarbons for laboratory and analytical purposes • Regulation (EC) No 1005/2009 of the European Parliament and of the Council on substances that deplete the ozone layer • Commission Decision 2010/372/EU on the use of controlled substances as process agents under Article 8(4) of Regulation (EC) No 1005/2009 of the European Parliament and of the Council • Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer • Council Regulation (EC) No 3093/94 of 15 December 1994 on substances that deplete the ozone layer • Commission Regulation (EEC) No 2047/93 of 27 July 1993 authorizing the trade of ozone depleting substances and products containing such substances with non-parties to the Montreal Protocol on substances that deplete the ozone layer 	

		<ul style="list-style-type: none"> • Council Regulation (EEC) No 594/91 of 4 March 1991 on substances that deplete the ozone layer • Council Regulation (EEC) No 3322/88 of 14 October 1988 on certain chlorofluorocarbons and halons which deplete the ozone layer <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Ozone-Depleting Substances Regulations 2015/168 	
<p>21 Montreal Protocol on Substances that Deplete the Ozone Layer 1987 ("Montreal Protocol" or MP)</p>	<p>EU signed 1987, ratified 1988 and EIF 1989</p> <p>UK signed 1987, ratified 1988 and EIF 1989</p> <p>MIXED AGREEMENT</p> <p><u>EU Declaration of Competence</u></p> <p>Council Decision of 2 December 1993 concerning the conclusion of the amendment to the Montreal Protocol on substances that deplete the ozone layer</p>	<p>See: <i>Vienna Convention (Implementation)</i></p>	<p>Art 8 requires procedures and institutional mechanisms for determining non-compliance with the provisions of this Protocol and for treatment of Parties found to be in non-compliance.</p> <p>Development of a non-compliance procedure at MOPs. Procedure is based on a non-confrontational, conciliatory and co-operative mechanism designed to encourage and assist Parties to achieve compliance. Primary triggers are reservations expressed by other parties, a party itself concluding non-compliance, or the Secretariat becoming aware of non-compliance. Note, there is no direct right for an third-party or NGO to raise objections.</p> <p>The indicative list of measures that might be taken by the MP MoP includes:</p> <ul style="list-style-type: none"> • providing appropriate assistance; • issuing cautions; • suspension of specific rights and privileges under the Protocol.

<p>22 Amendment to the Montreal Protocol on Substances that deplete the Ozone Layer 1990 ("MP London Amendment)</p>	<p>UK ratified 1991, EIF 1992 EU accepted 1991, EIF 1992</p> <p>MIXED AGREEMENT</p> <p>Council Decision of 12 December 1991 concerning the conclusion of the amendment to the Montreal Protocol on substances that deplete the ozone layer as adopted in June 1990 in London by the Parties to the Protocol</p>	<p>See: <i>Vienna Convention (Implementation)</i></p>	<p>See: <i>Montreal Protocol (enforcement)</i></p>
<p>23 Amendment to the Montreal Protocol on Substances that deplete the Ozone Layer 1992 ("MP Copenhagen Amendment)</p>	<p>UK ratified 1995, EIF 1995 EU accepted 1995, EIF 1996</p> <p>MIXED AGREEMENT</p> <p>Council Decision of 2 December 1993 concerning the conclusion of the amendment to the Montreal Protocol on substances that deplete the ozone layer</p>	<p>See: <i>Vienna Convention (Implementation)</i></p>	<p>See: <i>Montreal Protocol (enforcement)</i></p>

<p>24 United Nations Framework Convention on Climate Change 1992 ("UNFCCC")</p>	<p>EU signed in 1992, ratification approval in 1993 and EIF 1994</p> <p>UK signed in 1992, ratified in 1993 and EIF 1994</p> <p>MIXED AGREEMENT</p> <p><u>EU Declaration of Competence</u></p> <p>Council Decision of 15 December 1993 concerning the conclusion of the United Nations Framework Convention on Climate Change</p>	<p><i>Note: EU legislation implementing obligations under the UNFCCC protocols or agreements is vast. Domestic legislative instruments follows each piece of EU law.</i></p> <p>Primary legislation:</p> <ul style="list-style-type: none"> • Climate Change Act 2008 <p>Secondary legislation under CCA 2008 includes:</p> <ul style="list-style-type: none"> • CRC Energy Efficiency Scheme Order 2010/768 • CRC Energy Efficiency Scheme Order 2013/1119 • Carbon Accounting (2013-2017 Budgetary Period) Regulations 2015/775 • Carbon Accounting Regulations 2009/1257 • Carbon Budget Order 2011/1603 • Carbon Budget Order 2016/785 • Carbon Budgets Order 2009/1259 • Climate Change Act 2008 (2020 Target, Credit Limit and Definitions) Order 2009/1258 • Climate Change Act 2008 (Credit Limit) Order 2011/1602 • Climate Change Act 2008 (Credit Limit) Order 2016/786 • Single Use Carrier Bags Charges (England) Order 2015/776 <p>Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC</p> <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Renewables Obligation Order 2015/1947 • Feed-in Tariffs Order 2012/2782 • Renewable Transport Fuel Obligations Order 2007/3072 • Building Regulations 2010/2214 • Electricity (Guarantees of Origin of Electricity Produced from Renewable Energy Sources) Regulations 2003 	<p>The UNFCCC itself set no binding limits on GHG emissions for individual countries and contains no enforcement mechanisms.</p> <p>Protocols and agreements may be negotiated to set binding limits.</p>
--	--	--	---

		<ul style="list-style-type: none"> • The Electricity (Fuel Mix Disclosure) Regulations 2005/391 • The Electricity (Connection Charges) Regulations 2002/93 • The Promotion of the Use of Energy from Renewable Sources Regulations 2011/243 <p>Other non-legislative measures:</p> <ul style="list-style-type: none"> • Transmission Licence Standard Conditions • Standard Conditions of the Electricity Distribution Licence • Modification to all electricity supply Standard Licence Conditions <p>Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community</p> <ul style="list-style-type: none"> • Including: <ul style="list-style-type: none"> ○ Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004 amending Directive 2003/87/EC establishing a <u>scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms.</u> ○ Commission Regulation (EU) No 389/2013 of 2 May 2013 establishing a <u>Union Registry</u> pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No 280/2004/EC and No 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011. ○ Commission Regulation (EU) No 601/2012 of 21 June 2012 on <u>the monitoring and reporting</u> 	
--	--	---	--

		<p>of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council.</p> <ul style="list-style-type: none"> ○ Commission Regulation (EU) No 550/2011 of 7 June 2011 on determining, pursuant to Directive 2003/87/EC of the European Parliament and of the Council, certain <u>restrictions applicable to the use of international credits from projects involving industrial gases</u> ○ Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to <u>improve and extend the greenhouse gas emission allowance trading scheme</u> of the Community. ○ Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008 amending Directive 2003/87/EC so as to <u>include aviation activities in the scheme</u> for greenhouse gas emission allowance trading within the Community. <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Emissions Performance Standard Regulations 2015/933 • Carbon Accounting (2013-2017 Budgetary Period) Regulations 2015/775 • Greenhouse Gas Emissions Trading Scheme Regulations 2012/3038 • The Greenhouse Gas Emissions Trading Scheme (Amendment) and National Emissions Inventory Regulations 2005 <p>Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC</p>	
--	--	---	--

		<ul style="list-style-type: none"> • Environmental Permitting (England and Wales) Regulations 2016/1154 • Pollution Prevention and Control (Designation of Energy Efficiency Directive) (England and Wales) Order 2015/816 • Combined Heat and Power Quality Assurance Regulations 2016/1108 • Heat Network (Metering and Billing) Regulations 2014/3120 • Energy Efficiency (Encouragement, Assessment and Information) Regulations 2014/1403 • Energy Savings Opportunity Scheme Regulations 2014/1643 • Electricity and Gas (Energy Company Obligation) Order 2014/3219 • Guarantees of Origin of Electricity Produced from High-efficiency Cogeneration Regulations 2007/292 <p><u>Other relevant EU law:</u></p> <p>Commission Implementing Regulation (EU) 2015/2067 of 17 November 2015 establishing, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council, minimum requirements and the conditions for mutual recognition for the certification of natural persons as regards stationary refrigeration, air conditioning and heat pump equipment, and refrigeration units of refrigerated trucks and trailers, containing fluorinated greenhouse gases and for the certification of companies as regards stationary refrigeration, air conditioning and heat pump equipment, containing fluorinated greenhouse gases</p> <ul style="list-style-type: none"> • Pollution Prevention and Control (Fees) (Miscellaneous Amendments and Other Provisions) Regulations 2015/1431 	
--	--	---	--

		<p>Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport</p> <p>Council Directive (EU) 2015/652 of 20 April 2015 laying down calculation methods and reporting requirements pursuant to Directive 98/70/EC of the European Parliament and of the Council relating to the quality of petrol and diesel fuels</p> <p>Commission Implementing Regulation (EU) No 749/2014 of 30 June 2014 on structure, format, submission processes and review of information reported by Member States pursuant to Regulation (EU) No 525/2013 of the European Parliament and of the Council</p> <p>Regulation (EU) No 662/2014 of the European Parliament and of the Council of 15 May 2014 amending Regulation (EU) No 525/2013 as regards the technical implementation of the Kyoto Protocol to the United Nations Framework Convention on Climate Change</p> <p>Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006</p> <p>Commission Delegated Regulation (EU) No 666/2014 of 12 March 2014 establishing substantive requirements for a Union inventory system and taking into account changes in the global warming potentials and internationally agreed inventory guidelines pursuant to Regulation (EU) No 525/2013 of the European Parliament and of the Council</p> <p>Regulation (EU) No 333/2014 of the European Parliament and of the Council of 11 March 2014 amending Regulation (EC) No 443/2009 to define the modalities for reaching the 2020 target to reduce CO₂ emissions from new passenger cars</p>	
--	--	--	--

		<p>Commission Regulation (EU) No 206/2014 of 4 March 2014 amending Regulation (EU) No 601/2012 as regards global warming potentials for non-CO₂ greenhouse gases</p> <p>Regulation (EU) No 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change</p> <p>Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008</p> <p>Regulation (EU) No 691/2011 of the European Parliament and of the Council of 6 July 2011 on European environmental economic accounts</p> <p>Regulation (EU) No 510/2011 of the European Parliament and of the Council of 11 May 2011 setting emission performance standards for new light commercial vehicles as part of the Union's integrated approach to reduce CO₂ emissions from light-duty vehicles</p> <p>Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings</p> <ul style="list-style-type: none"> • The Energy Performance of Buildings (England and Wales) Regulations 2012/3118 • Energy Performance of Building Regs for England - Supporting Document INFR 2015/2126 <p>Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market. In England implemented by:</p> <ul style="list-style-type: none"> • Timber and Timber Products (Placing on the Market) Regulations 2013/233 	
--	--	---	--

		<p>Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products</p> <ul style="list-style-type: none"> • The Ecodesign for Energy-Related Products Regulations 2010/2617 <p>Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide</p> <ul style="list-style-type: none"> • The Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 • The Storage of Carbon Dioxide (Licensing etc.) Regulations 2010 • The Storage of Carbon Dioxide (Termination of Licences) Regulations 2011 • Transposition Note regarding UK Transposition of EU Directive 2009/31/EC • The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 • The Storage of Carbon Dioxide (Access to Infrastructure) Regulations 2011 • The Storage of Carbon Dioxide (Amendment of the Energy Act 2008 etc.) Regulations 2011 • The Carbon Capture Readiness (Electricity Generating Stations) Regulations 2013 • The Energy Act 2008 <p>Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO₂ emissions from light-duty vehicles</p> <p>Regulation (EC) No 295/2008 of the European Parliament and of the Council of 11 March 2008 concerning structural business statistics (recast)</p>	
--	--	--	--

		<p>Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control</p> <p>Regulation (EC) No 106/2008 of the European Parliament and of the Council of 15 January 2008 on a Community energy-efficiency labelling programme for office equipment (recast version)</p> <p>Directive 2006/40/EC of the European Parliament and of the Council of 17 May 2006 relating to emissions from air conditioning systems in motor vehicles and amending Council Directive 70/156/EEC.</p> <p>Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity</p> <ul style="list-style-type: none"> • The Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc.) Regulations 2004/2065 • The Excise Warehousing (Energy Products) Regulations 2004/2064 • The Climate Change Levy (Combined Heat and Power Stations) Regulations 2005/1714 <p>Directive 1999/94/EC of the European Parliament and of the Council of 13 December 1999 relating to the availability of consumer information on fuel economy and CO₂ emissions in respect of the marketing of new passenger cars</p> <ul style="list-style-type: none"> • The Passenger Car (Fuel Consumption and CO₂ Emissions Information) Regulations 2001/3523 <p>Other EU measures:</p> <ul style="list-style-type: none"> • 2020 climate & energy package • 2030 climate & energy framework • 2050 low-carbon economy • 2050 Energy strategy 	
--	--	--	--

<p>25 Kyoto Protocol 1997</p>	<p>EU signed in 1998, ratification approval in 2002 and EIF 2005</p> <p>UK signed in 1998, ratification in 2002 and EIF 2005</p> <p>MIXED AGREEMENT</p> <p><u>EU Competency Declaration</u></p> <p>Council Decision of 25 April 2002 concerning the approval, on behalf of the European Community, of the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the joint fulfilment of commitments thereunder</p>	<p>EU law:</p> <ul style="list-style-type: none"> • Regulation (EU) No 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change • Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020 • No legislation for implementation of second commitment period <p>Primary legislation:</p> <ul style="list-style-type: none"> • Environment Act 1995 <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Carbon Accounting (2013-2017 Budgetary Period) Regulations 2015/775 • Greenhouse Gas Emissions Trading Scheme Regulations 2012/3038 <p>See: UNFCCC (implementation)</p>	<p>Further research required</p>
<p>26 Amendment to the Montreal Protocol on Substances that deplete the Ozone Layer 1997 ("MP Montreal Amendment")</p>	<p>UK ratified 2001, EIF 2002</p> <p>EU accepted 2000, EIF 2001</p> <p>MIXED</p> <p>Council Decision of 17 October 2000 concerning the conclusion of the amendment to the Montreal Protocol on</p>	<p>See: Vienna Convention (Implementation)</p>	<p>See: Montreal Protocol (enforcement)</p>

	substances that deplete the ozone layer		
27 Amendment to the Montreal Protocol on Substances that deplete the Ozone Layer 1999 ("MP Beijing Amendment")	<p>UK ratified 2001, EIF 2002</p> <p>EU accepted 2002, EIF 2002</p> <p>MIXED</p> <p>Council Decision of 4 March 2002 concerning the conclusion of the Fourth Amendment to the Montreal Protocol on substances that deplete the ozone layer</p>	See: <i>Vienna Convention (Implementation)</i>	See: <i>Montreal Protocol (enforcement)</i>
28 Minamata Convention on Mercury 2013	<p>UK signed 2013, not ratified.</p> <p>EU signed 2013, ratified May 2017, <i>EIF on 16 August 2017 (forthcoming)</i></p> <p>EU ONLY</p>	<p>EU law:</p> <ul style="list-style-type: none"> Regulation (EU) 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury, and repealing Regulation (EC) No 1102/2008. <i>Note: regulation shall apply in its entirety from 1 January 2018, with certain provisions applicable from 11 December 2017</i> 	n/a
29 Amendment to the Montreal Protocol on Substances that deplete the Ozone Layer 2016 ("MP Kigali Amendment")	<p><i>NYIF</i></p> <p>NONE</p>	n/a	n/a

30 Paris Agreement under the United Nations Framework Convention on Climate Change 2016	<p>EU signed, ratified and EIF in 2016</p> <p>UK signed, ratified and EIF in 2016</p> <p>MIXED AGREEMENT</p> <p>Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change</p>	See: UNFCCC (implementation)	<i>Further research required</i>
--	---	-------------------------------------	----------------------------------

ENVIRONMENTAL IMPACT

Convention	Competency	Implementation	Enforcement
31 Convention on Environmental Impact Assessment in a Transboundary Context 1991 ("Espoo Convention")	<p>EU signed 1991, approved and EIF 1997</p> <p>UK signed 1991, ratified 1997 and EIF 1998</p> <p>MIXED AGREEMENT</p> <p>Proposal for a Council Decision concerning the conclusion on behalf of the Community of the Convention on environmental impact assessment in a transboundary context</p> <p><i>Note: only proposal for decision located</i></p>	<p>EU law:</p> <ul style="list-style-type: none"> Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants Commission Implementing Regulation (EU) No 897/2014 of 18 August 2014 laying down specific provisions for the implementation of cross-border cooperation programmes financed under Regulation (EU) No 232/2014 of the European Parliament and the Council establishing a European Neighbourhood Instrument Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment Commission Recommendation 1999/28/EC of 14 December 1998 concerning the improvement of authorisation procedures for trans-European energy networks <p>Secondary legislation:</p> <ul style="list-style-type: none"> Town and Country Planning (Environmental Impact Assessment) Regulations 2017 Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 Town and Country Planning (Development Management Procedure) (England) Order 2015/595 The Offshore Petroleum Licensing (Offshore Safety Directive) Regulations 2015 The Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) (Amendment) Regulations 2015 	<p>Art 11, para 2 requires the Parties to keep under continuous review the implementation of the Convention. Parties submit national responses to questionnaires in every two or three years for the review of compliance.</p> <p>The Compliance review procedure was established by Decision II/4 of the 2nd MOP. In general this is based on the model adopted by the LRTAP Convention, although slight differences in triggering, etc. It is not a judicial body.</p> <p>This procedure should be available for review compliance with any future amendment or protocols to the Convention.</p>

		<ul style="list-style-type: none"> • The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 • The Environmental Damage (Prevention and Remediation) (England) Regulations 2015 <p>Other non-legislative measures:</p> <ul style="list-style-type: none"> • PPG: Environmental Impact Assessment (Paragraph: 049 Reference ID: 4-049-20150415) <p><i>Note: scope of EU measures often only involve implementation of the agreement as between EU MS, not between all parties covered by the Espoo Convention</i></p>	
<p>32 First amendment to the Convention on Environmental Impact Assessment in a Transboundary Context 2001</p>	<p>EU approved 2008 UK did not</p> <p>EU ONLY</p> <p>Proposal for a Council Decision on the approval, on behalf of the European Community, of the first and the second amendments to the UN/ECE Espoo Convention on Environmental Impact Assessment in a Transboundary Context</p>	<p>See: ESPOO Convention (implementation)</p>	<p>See: ESPOO Convention (enforcement)</p>

33 Second amendment to the Convention on Environmental Impact Assessment in a Transboundary Context 2004	EU approved 2008 UK did not. <i>NYIF</i> EU ONLY	n/a	n/a
34 Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context 2003 ("SEA Protocol")	EU signed 2003, ratified 2008 and EIF 2010 UK signed 2003, did not ratify EU ONLY <u>Declaration of EU competency</u> <i>Note: the EU Treaties Office designates this protocol one of mixed competence. However, it has been entered into by the EU only (and it lists the agreement as pending entry into force, which is also incorrect)</i> Council Decision of 20 October 2008 on the approval, on behalf of the European Community, of the Protocol on Strategic Environmental Assessment to the	EU law: <ul style="list-style-type: none"> • Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment Secondary legislation: <ul style="list-style-type: none"> • The Environmental Assessment of Plans and Programmes Regulations 2004/1633 	See: ESPOO Convention (enforcement)

	1991 UN/ECE Espoo Convention on Environmental Impact Assessment in a Transboundary Context		
--	--	--	--

ACCESS TO ENVIRONMENTAL INFORMATION

Convention	Competency	Implementation	Enforcement
<p>35 Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters 1998 ("Aarhus Convention")</p>	<p>EU signed 1998, ratified and EIF 2005</p> <p>UK signed 1998, ratified and EIF 2005</p> <p>MIXED AGREEMENT</p> <p>Council Decision of 17 February 2005 on the conclusion, on behalf of the European Community, of the Convention on access to information, public participation in decision-making and access to justice in environmental matters</p> <p>Council Decision of 18 December 2006 on the conclusion, on behalf of the European Community, of an amendment to the Convention on access to information, public participation in decision-making and access to justice in environmental matters</p>	<p><u>General</u></p> <p>EU Law:</p> <ul style="list-style-type: none"> • Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies • Commission Decision 2008/401/EC, Euratom of 30 April 2008 amending its Rules of Procedure as regards detailed rules for the application of Regulation (EC) No 1367/2006 of the European Parliament and of the Council on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institution and bodies • 2008/50/EC: Commission Decision of 13 December 2007 laying down detailed rules for the application of Regulation (EC) No 1367/2006 of the European Parliament and of the Council on the Aarhus Convention as regards requests for the internal review of administrative acts <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Air Quality Standards Regulations 2010/1001 	<p>Aarhus Compliance Committee procedure. Can hear complains from individuals or groups, and will then determine whether or not the state has complied with its obligations under the directive. At present determinations of complaints by the Compliance Committee do not have legal force in domestic law, see <u>Walton v Scottish Ministers</u> [2012] UKSC 44, at paragraph [100].</p>

		<p><u>Public Participation</u></p> <p>EU Law:</p> <ul style="list-style-type: none"> • Directive 2006/7/EC of the European Parliament and of the Council of 15 February 2006 concerning the management of bathing water quality and repealing Directive 76/160/EEC • Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC • Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions • Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC • Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment • Directive 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 <p>Secondary legislation:</p> <ul style="list-style-type: none"> • The Pollution Prevention and Control (Public Participation) (England and Wales) Regulations 2005 • The Environmental Assessment of Plans and Programmes Regulations 2004 	
--	--	---	--

		<ul style="list-style-type: none"> • Town and Country Planning Act 1990 • Planning and Compensation Act 1991 • The Planning (Control of Major-Accident Hazards) Regulations 1999 • The Town and Country Planning (Development Plan) Regulations 1991 • Integrated Pollution Control and Air Pollution Control by Local Authorities • Environment Act 1995 • The Town and Country Planning (Transitional Arrangements) (England) Regulations 2004 • The Town and Country Planning (Local Development) (England) Regulations 2004 • The Town and Country Planning (Regional Planning) (England) Regulations 2004 • Planning and Compulsory Purchase Act 2004 (Parts 1 and 2 of, and Schedule 8) • The Environmental Protection Act 1990 • The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 • The Environmental Impact Assessment (Agriculture) (England) (No.2) Regulations 2006 • The Transport and Works (Assessment of Environmental Effects) Regulations 2006 • The Highways (Environmental Impact Assessment) Regulations 2007 • The Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (England and Northern Ireland) Regulations 2007 • The Marine Works (Environmental Impact Assessment) Regulations 2007 • The Transfrontier Shipment of Waste Regulations 2007 	
--	--	---	--

		<p><u>Public access to environmental information</u></p> <p>EU Law:</p> <ul style="list-style-type: none"> • <i>See those listed under 'public participation'</i> • Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC <p>Secondary legislation:</p> <ul style="list-style-type: none"> • The Environmental Information Regulations 2004 • Freedom of Information Act 2000 <p><u>Access to Justice</u></p> <p>Secondary Legislation</p> <ul style="list-style-type: none"> • Criminal Justice and Courts Act 2015 (Disapplication of Sections 88 and 89) Regulations 2017/100 • Civil Procedure Rules 1998/3132 <p><u>Other relevant EU Law</u></p> <ul style="list-style-type: none"> • Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants, amending • Directive 2003/35/EC and repealing Directive 2001/81/EC • Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure • Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management 	
--	--	---	--

		<p>of waste from extractive industries and amending Directive 2004/35/EC - Statement by the European Parliament, the Council and the Commission</p> <ul style="list-style-type: none"> • Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment • Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC • Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC • Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste • Regulation (EC) No 1102/2008 of the European Parliament and of the Council of 22 October 2008 on the banning of exports of metallic mercury and certain mercury compounds and mixtures and the safe storage of metallic mercury • Regulation (EC) No 1185/2009 of the European Parliament and of the Council of 25 November 2009 concerning statistics on pesticides • Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC • Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 	
--	--	---	--

		<p>1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC</p> <ul style="list-style-type: none"> • Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities • Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC • Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC • Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009 • Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006 • Commission Regulation (EU) No 557/2013 of 17 June 2013 implementing Regulation (EC) No 223/2009 of 	
--	--	---	--

		<p>the European Parliament and of the Council on European Statistics as regards access to confidential data for scientific purposes and repealing Commission Regulation (EC) No 831/2002</p> <ul style="list-style-type: none"> • Council Regulation (EC) No 199/2008 of 25 February 2008 concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy • Council Regulation (EU) No 558/2014 of 6 May 2014 establishing the Clean Sky 2 Joint Undertaking • Council Regulation (EU) No 642/2014 of 16 June 2014 establishing the Shift2Rail Joint Undertaking 	
<p>36 Kyiv Protocol on Pollutant Release and Transfer Registers to the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters 2003</p>	<p>EU signed 2003, accepted 2006 and EIF 2009</p> <p>UK signed 2003, ratified and EIF 2009</p> <p>MIXED AGREEMENT</p> <p><u>Declaration of EU Competence</u></p> <p>Council Decision of 2 December 2005 on the conclusion, on behalf of the European Community, of the UN-ECE Protocol on Pollutant Release and Transfer Registers</p>	<p>EU law:</p> <ul style="list-style-type: none"> • Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council • Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions • Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC • Commission Regulation (EU) No 601/2012 of 21 June 2012 on the monitoring and reporting of greenhouse 	

		<p>gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council</p> <ul style="list-style-type: none">• Regulation (EU) No 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC	
--	--	--	--

MARINE ENVIRONMENT

Convention	Competency	Implementation	Enforcement
37 International Convention for the Regulation of Whaling 1946	UK signed 1946, ratified 1947, EIF 1948 UK ONLY	Primary legislation: <ul style="list-style-type: none"> • Merchant Shipping Act 1995 • Environmental Protection Act 1990 • Whaling Industry (Regulation) Act 1934 Secondary legislation: <ul style="list-style-type: none"> • International Whaling Commission (Immunities and Privileges) Order 1975/1210 	
38 International Convention for the Prevention of Pollution of the Sea by Oil 1954	UK withdrew 1983 NONE	n/a	
39 Protocol to the International Convention for the Regulation of Whaling 1956	UK signed 1956, ratified 1957, EIF 1959 UK ONLY	<i>See parent convention</i>	
40 Convention on the Territorial Sea and the Contiguous Zone 1958	UK signed 1958, ratified 1960, EIF 1964 UK ONLY	None found	
41 Convention on Fishing and Conservation of the Living Resources of the High Seas 1958	UK signed 1958, ratified and EIF 1960 UK ONLY	None found	

42 Convention on the High Seas 1958	UK signed 1958, ratified 1960, EIF 1962 UK ONLY	Primary legislation: <ul style="list-style-type: none"> Continental Shelf Act 1964 Secondary legislation: <ul style="list-style-type: none"> Tokyo Convention Act 1967 (Overseas Territories) Order 1968/1864 	
43 Convention on the Continental Shelf 1958 (and Optional Protocol of Signature concerning the Compulsory Settlement of Disputes 1958)	UK signed 1958, ratified and EIF 1964 UK ONLY	Primary legislation: <ul style="list-style-type: none"> Continental Shelf Act 1964 	
44 International Convention for the Conservation of Atlantic Tunas 1966 ("ICCAT")	UK accession and EIF, 1995, withdrawal 1997 EU accession and EIF 1997 EU ONLY Council Decision of 9 June 1986 on the accession of the Community to the International Convention for the Conservation of Atlantic Tunas, as amended by the Protocol annexed to the Final Act of the Conference of Plenipotentiaries of the States Parties to the Convention signed in Paris on 10 July 1984	EU law: <ul style="list-style-type: none"> Council Regulation (EU) 2017/127 of 20 January 2017 fixing for 2017 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters Regulation (EU) 2016/1627 of the European Parliament and of the Council of 14 September 2016 on a multiannual recovery plan for bluefin tuna in the eastern Atlantic and the Mediterranean, and repealing Council Regulation (EC) No 302/2009 Commission Delegated Regulation (EU) 2016/171 of 20 November 2015 amending Delegated Regulation (EU) 2015/98 on the implementation of the Union's international obligations, as referred to in Article 15(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council, under the International Convention for the Conservation of Atlantic Tunas and the 	The Conservation and Management Measures Compliance Committee ("Compliance Committee") evaluates compliance and cooperation with ICCAT measures by members and non-members through an annual review of compliance with ICCAT statistical data requirements and management measures. This process includes a review of any alleged infractions submitted by third party sources. There is an opportunity for each Contracting Party to ask questions, provide information and clarification of the record, and submit missing information or reports. The Secretariat compiles a compliance summary table to facilitate a substantive discussion of compliance failures and corrective actions. Since 2011, an ad hoc review group has assisted the Compliance Committee Chair in assessing relevant information. In 2012, ICCAT adopted revised guidelines for Annual Reports, designed to standardize and improve reporting by parties on how they have implemented ICCAT requirements

		<p>Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries</p> <ul style="list-style-type: none"> • Regulation (EU) No 249/2014 of the European Parliament and of the Council of 26 February 2014 repealing Council Regulation (EC) No 827/2004 prohibiting imports of Atlantic bigeye tuna (<i>Thunnus obesus</i>) originating in Bolivia, Cambodia, Equatorial Guinea, Georgia and Sierra Leone and repealing Regulation (EC) No 1036/2001 • Commission Delegated Regulation (EU) 2015/98 of 18 November 2014 on the implementation of the Union's international obligations, as referred to in Article 15(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council, under the International Convention for the Conservation of Atlantic Tunas and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries • Regulation (EU) No 640/2010 of the European Parliament and of the Council of 7 July 2010 establishing a catch documentation programme for bluefin tuna <i>Thunnus thynnus</i> and amending Council Regulation (EC) No 1984/2003 • Council Regulation (EU) No 23/2010 of 14 January 2010 fixing for 2010 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in waters where catch limitations are required and amending Regulations (EC) No 1359/2008, (EC) No 754/2009, (EC) No 1226/2009 and (EC) No 1287/2009 • Council Regulation (EC) No 643/2007 of 11 June 2007 amending Regulation (EC) No 41/2007 as concerns the recovery plan for bluefin tuna recommended by the International Commission for the Conservation of Atlantic Tunas • Council Regulation (EC) No 520/2007 of 7 May 2007 laying down technical measures for the 	<p>and to further facilitate the compliance review process.</p> <p>A "Schedule of Actions" has been used on a pilot basis to guide the Compliance Committee's decisions on appropriate steps in cases of non-compliance. The Compliance Committee implements a number of ICCAT recommendations, including requirements for quota overharvests to be repaid in full within a specified timeframe and for additional quota or other penalties to be assessed for repeated quota overharvests. Under Recommendation 06-13 on Trade Measures, if a CPC or non-member is found to be diminishing the effectiveness of ICCAT, that CPC or non-member is "identified" and ICCAT sends a letter notifying them of the identification, including the reasons for it, and asking them to rectify the situation. An identified party has the opportunity to respond to ICCAT at least 30 days prior the next annual meeting to explain its non-compliance and any actions taken in response. Failure to rectify the identified activity may result in penalties including, for example, quota reduction or, as a last resort, non-discriminatory trade restrictive measures. To date, ICCAT has applied trade action under this instrument to several non-members and one ICCAT member. In cases of lesser infractions, or, in some cases, infractions that have just come to light (and where complete information may not yet be available), ICCAT may issue a letter of concern. Although letters of concern are not part of the formal process established in Rec. 06-13, they serve an important role in ICCAT's compliance process.</p>
--	--	---	--

		<p>conservation of certain stocks of highly migratory species and repealing Regulation (EC) No 973/2001</p> <ul style="list-style-type: none"> • Council Regulation (EC) No 1984/2003 of 8 April 2003 introducing a system for the statistical monitoring of trade in bluefin tuna, swordfish and bigeye tuna within the Community • Council Regulation (EC) No 1936/2001 of 27 September 2001 laying down control measures applicable to fishing for certain stocks of highly migratory fish 	
45 International Convention on Civil Liability for Oil Pollution Damage 1969 ("CLC")	<p>UK signed 1969, ratified and EIF 1975, denunciation 1998</p> <p>NONE</p>	n/a	
46 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972 ("London Convention 1972")	<p>UK signed 1972, ratified and EIF 1975</p> <p>UK ONLY</p>	<p>Primary legislation:</p> <ul style="list-style-type: none"> • Marine and Coastal Access Act 2009 • Environmental Protection Act 1990 • Food and Environment Protection Act 1985 <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008/3257 • Merchant Shipping (Prevention of Oil Pollution) Regulations 1996/2154 	<p>There are no compliance mechanisms under the London Convention 1972, however, with the entry into force of the London Protocol on 26 March 2006, a set of Compliance Procedures and Mechanisms, pursuant to Article 11, were adopted in November 2007. It included the establishment of a subsidiary body - the Compliance Group - that meets in parallel to the Meeting of Contracting Parties and provides advice to the Parties on such matters. The objective of the Compliance Procedures and Mechanisms under the London Protocol is to assess and promote compliance with the London Protocol with a view to allowing for the full and open exchange of information, in a constructive manner. The Meeting of Contracting Parties retains overall responsibility for compliance matters.</p> <p>Following consideration and assessment of an issue regarding a Party's possible non-compliance, and taking into account the capacity of the Party</p>

			<p>concerned, the Compliance Group may recommend to the Meeting of Contracting Parties that one or more of the following measures be taken: the provision of advice and recommendations, with a view to assisting the Party concerned to implement the Protocol; the facilitation of co-operation and assistance; the elaboration, with the co-operation of the Party or Parties concerned, of compliance action plans, including targets and timelines; and the issuing of a formal statement of concern regarding a Party's compliance situation.</p> <p>The Meeting of Contracting Parties shall make the final decision regarding any measures proposed by the Compliance Group to be taken in response to a Party's possible non-compliance. The Meeting of Contracting Parties may also consider additional measures within its mandate, as appropriate, to facilitate compliance by the Party concerned.</p>
<p>47 International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 ("MARPOL 73/78")</p>	<p>UK signed 1978, ratified 1980, EIF 1983</p> <p>UK ONLY</p>	<p><i>Note: despite being a UK-only agreement the UK's mode of compliance with MARPOL Annex VI is being driven in part by the requirement to comply with EU law</i></p> <p>EU law:</p> <ul style="list-style-type: none"> • Commission Implementing Regulation (EU) 2017/306 of 6 February 2017 indicating design, construction and performance requirements and testing standards for marine equipment • Directive (EU) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels • Regulation (EU) No 530/2012 of the European Parliament and of the Council of 13 June 2012 on the accelerated phasing-in of double-hull or 	

		<p>equivalent design requirements for single-hull oil tankers</p> <ul style="list-style-type: none"> • Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control • Regulation (EC) No 219/2009 of the European Parliament and of the Council of 11 March 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny — Adaptation to the regulatory procedure with scrutiny — Part Two • Commission Directive 2007/71/EC of 13 December 2007 amending Annex II of Directive 2000/59/EC of the European Parliament and the Council on port reception facilities for ship-generated waste and cargo residues (Text with EEA relevance) • Council Regulation (EC) No 1099/2007 of 18 September 2007 amending Regulation (EC) No 601/2004 laying down certain control measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living resources • Council Regulation (EC) No 41/2006 of 21 December 2006 fixing for 2007 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required • Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste • Council Regulation (EC) No 51/2006 of 22 December 2005 fixing for 2006 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community 	
--	--	---	--

		<p>waters and, for Community vessels, in waters where catch limitations are required</p> <ul style="list-style-type: none"> • Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements • Council Framework Decision 2005/667/JHA of 12 July 2005 to strengthen the criminal-law framework for the enforcement of the law against ship-source pollution • Council Regulation (EC) No 27/2005 of 22 December 2004 fixing for 2005 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required • Regulation (EC) No 789/2004 of the European Parliament and of the Council of 21 April 2004 on the transfer of cargo and passenger ships between registers within the Community and repealing Council Regulation (EEC) No 613/91 • Council Regulation (EC) No 2287/2003 of 19 December 2003 fixing for 2004 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required • Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the Regulations on maritime safety and the prevention of pollution from ships • Directive 2002/84/EC of the European Parliament and of the Council of 5 November 2002 amending the Directives on maritime safety and the prevention of pollution from ships 	
--	--	---	--

		<ul style="list-style-type: none"> • Regulation (EC) No 417/2002 of the European Parliament and of the Council of 18 February 2002 on the accelerated phasing-in of double hull or equivalent design requirements for single hull oil tankers and repealing Council Regulation (EC) No 2978/94 • Directive 2001/106/EC of the European Parliament and of the Council of 19 December 2001 amending Council Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control) • Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues - Commission declaration • Council Directive 98/25/EC of 27 April 1998 amending Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control) • Directive 97/68/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery • Council Directive 96/98/EC on marine equipment • Council Directive 95/21/EC of 19 June 1995 concerning the enforcement, in respect of shipping using Community ports and sailing in the waters 	
--	--	--	--

		<p>under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control)</p> <ul style="list-style-type: none"> • Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations • Council Regulation (EC) No 2978/94 of 21 November 1994 on the implementation of IMO Resolution A.747(18) on the application of tonnage measurement of ballast spaces in segregated ballast oil tankers • 94/712/EC: Commission Decision of 3 May 1994 concerning the grant of assistance from the cohesion financial instrument to the project concerning the recovery of water from the washing of tanks, cleaning of bilges and deballasting of ships in Spain No CF: 93/11/61/095 • Council Regulation (EEC) No 613/91 of 4 March 1991 on the transfer of ships from one register to another within the Community <p>Other non-legislative EU measures:</p> <ul style="list-style-type: none"> • Guidelines for the interpretation of Directive 2000/59/EC on port reception facilities for ship generated waste and cargo residues <p>Primary legislation:</p> <ul style="list-style-type: none"> • Merchant Shipping Act 1995 <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Merchant Shipping (Port State Control) Regulations 2011/2601 • Merchant Shipping (Implementation of Ship-Source Pollution Directive) Regulations 2009/1210 	
--	--	---	--

		<ul style="list-style-type: none"> • Merchant Shipping (Prevention of Oil Pollution) Order 1983/1106 <p><i>Note: the domestic legislation listed implements MARPOL 73/78, not the EU law</i></p>	
48 UN Convention on the Law of the Sea 1982 ("UNCLOS")	<p>UK ratified 1997, EIF 1997</p> <p>EU signed 1984, ratified 1998, EIF 1998</p> <p>MIXED AGREEMENT</p> <p><u>EU Declaration of Competency</u></p> <p>Council Decision 98/392/EC of 23 March 1998 concerning the conclusion by the European Community of the United Nations Convention of 10 December 1982 on the Law of the Sea and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof</p>	<i>Out of scope</i>	<i>Out of scope – see Article 287 for procedures for settlement of dispute concerning the interpretation or application of UNCLOS (incl. International Tribunal of the Law of the Sea and International Court of Justice)</i>
49 Convention on the Conservation of Antarctic Marine Living Resources 1980 ("CCAMLR")	<p>UK signed 1980, ratified 1981, EIF 1982</p> <p>EEC ratified and EIF 1982</p> <p>MIXED AGREEMENT</p> <p>Council Decision of 4 September 1981 on the conclusion of the</p>	<p>EU law:</p> <ul style="list-style-type: none"> • Council Regulation (EC) No 601/2004 of 22 March 2004 laying down certain control measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living resources and repealing Regulations (EEC) No 3943/90, (EC) No 66/98 and (EC) No 1721/1999 	

	Convention on the conservation of Antarctic marine living resources	<ul style="list-style-type: none"> • Council Regulation (EC) No 600/2004 of 22 March 2004 laying down certain technical measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living resources <p><i>Note: omitted EU law relating to TACs and quotas: i.e. Council Regulation (EU) 2017/127</i></p> <p>Primary legislation:</p> <ul style="list-style-type: none"> • Antarctic Act 1994 <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Antarctic Regulations 1995/490 <p><i>Note: domestic legislation does not appear to make any reference to relevant EU law</i></p>	
50 Convention for the Conservation of Salmon in the North Atlantic 1982 ("NASCO")	<p>UK did not sign</p> <p>EU signed 1982, EIF 1983</p> <p>EU only</p> <p><u>EU Declaration of Competency</u></p> <p>Council Decision 82/886/EEC concerning the conclusion of the Convention for the Conservation of Salmon in the North Atlantic Ocean</p>	<p>EU law:</p> <ul style="list-style-type: none"> • Regulation (EC) No 218/2009 of the European Parliament and of the Council of 11 March 2009 on the submission of nominal catch statistics by Member States fishing in the north-east Atlantic (recast) • Council Regulation (EEC) No 223/85 of 29 January 1985 on the conclusion of the Agreement on fisheries between the European Economic Community, on the one hand, and the Government of Denmark and the local Government of Greenland, on the other <p><i>Note: no domestic legislation found, either implementing the convention or the EU regulations</i></p>	

<p>51 Agreement for cooperation in dealing with pollution of the North Sea by oil and other harmful substances 1983 ("Bonn Agreement")</p>	<p>UK signed 1983, ratified 1985, EIF 1989</p> <p>EEC signed 1983, accepted 1984, EIF 1989</p> <p>MIXED AGREEMENT</p> <p>Council Decision of 28 June 1984 concerning the conclusion of the Agreement for cooperation in dealing with pollution of the North Sea by oil and other harmful substances</p> <p>Council Decision of 18 October 1993 approving certain amendments to the Agreement for cooperation in dealing with pollution of the North Sea by oil and other harmful substances (Bonn Agreement)</p>	<p>EU law:</p> <ul style="list-style-type: none"> • Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency • 80/686/EEC: Commission Decision of 25 June 1980 setting up an Advisory Committee on the control and reduction of pollution caused by hydrocarbons discharged at sea 	
<p>52 Protocol Relating to Modification of the International Convention for the Conservation of Atlantic Tunas 1984</p>	<p>UK acceptance 1995, EIF and subsequent withdrawal 1997</p> <p>EU has not signed.</p> <p>NONE</p>		
<p>53 Protocol of 1992 to amend the International Convention on the Establishment of an International Fund for</p>	<p>UK accession 1992, EIF 1994</p> <p>UK ONLY</p>	<p>Primary legislation:</p> <ul style="list-style-type: none"> • Merchant Shipping (Pollution) Act 2006 • Merchant Shipping Act 1995 	

Compensation for Oil Pollution Damage 1971		<p>Secondary legislation:</p> <ul style="list-style-type: none"> • International Oil Pollution Compensation Fund 1992 (Immunities and Privileges) Order 1996/1295 • Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) (Overseas Territories) Order 1997/2578 	
<p>54 The Convention for the Protection of the Marine Environment of the North-East Atlantic 1992 ("the OSPAR Convention")</p>	<p>UK signed 1992, ratified 1997 and EIF 1998</p> <p>EU signed 1992, accepted 1997 and EIF 1998</p> <p>UK ratified and EU approved Annex V and Appendix 3 2000</p> <p>MIXED AGREEMENT</p> <p>Council Decision 98/249/EC: on the conclusion of the Convention for the protection of the marine environment of the north-east Atlantic</p>	<p><i>Note: implemented as one of the four regional sea conventions ("RSC"), but the UK is only party to OSPAR. The others RSCs are the Barcelona Convention, Bucharest Convention and HELCOM.</i></p> <p>EU law:</p> <ul style="list-style-type: none"> • Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy <p><i>Note: the MSFD requires Member States to use the institutional structures and activities of the RSC to facilitate the implementation of the Directive notably in relation to third countries. The MSFD also ensures that RSC and other international agreements are taken into account at all stages of the development of marine strategies. Finally, the Commission was required to consult with RSC when developing standards and methodological criteria on good environmental status.</i></p> <p>Primary legislation:</p> <ul style="list-style-type: none"> • Marine and Coastal Access Act 2009 (<i>Note, orders made under the MCAA are not listed</i>) • Pollution Prevention and Control Act 1999 <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Marine Strategy Regulations 2010/1627 • Offshore Chemicals Regulations 2002/1355 • OSPAR Commission (Immunities and Privileges) Order 1997/2975 	<p>Under Article 23 the OSPAR Commission will assess compliance with the Convention and make any decisions and recommendations. Where appropriate the Commission may "decide upon and call for steps to bring about full compliance with the Convention"</p>

<p>55 Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea 1994 ("UNCLOS 1994 Agreement")</p>	<p>UK signed 1994, ratified 1997, EIF 1997</p> <p>EU signed 1994, ratified and EIF 1998</p> <p>MIXED AGREEMENT</p> <p><u>EU Declaration of competence</u></p> <p>Council Decision 98/392/EC of 23 March 1998 concerning the conclusion by the European Community of the United Nations Convention of 10 December 1982 on the Law of the Sea and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof</p>	<p><i>See: UNCLOS (out of scope)</i></p>	
<p>56 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks 1995 ("Straddling Fish Stocks")</p>	<p>UK signed 1995, ratified 2001, EIF 2002</p> <p>EU signed 1996, ratified 2003 and EIF 2004</p> <p>MIXED AGREEMENT</p> <p><u>EU Declaration of competence (Annex B)</u></p> <p>Council Decision of 8 June 1998 on the ratification by the European Community of</p>	<p>EU law:</p> <ul style="list-style-type: none"> • Council Regulation (EU) 2016/2285 of 12 December 2016 fixing for 2017 and 2018 the fishing opportunities for Union fishing vessels for certain deep-sea fish stocks and amending Council Regulation (EU) 2016/72 • Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy [...] • Regulation (EU) No 1026/2012 of the European Parliament and of the Council of 25 October 2012 on certain measures for the purpose of the 	

	<p>the Agreement for the implementing of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling stocks and highly migratory fish stocks</p>	<p>conservation of fish stocks in relation to countries allowing non-sustainable fishing</p> <ul style="list-style-type: none"> • Council Regulation (EC) No 439/2009 of 23 March 2009 concerning the conclusion of the Agreement between the European Community and the Government of the Russian Federation on cooperation in fisheries and the conservation of the living marine resources in the Baltic Sea • Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999. In England implemented by: <ul style="list-style-type: none"> • Council Regulation (EC) No 734/2008 of 15 July 2008 on the protection of vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears • Council Regulation (EC) No 753/2007 of 28 June 2007 on the conclusion of the Fisheries Partnership Agreement between the European Community on the one hand, and the Government of Denmark and the Home Rule Government of Greenland, on the other hand • Council Regulation (EC) No 1568/2005 of 20 September 2005 amending Regulation (EC) No 850/98 as regards the protection of deep-water coral reefs from the effects of fishing in certain areas of the Atlantic Ocean <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Fishing Boats Designation (England) Order 2015/648 	
--	--	--	--

		<ul style="list-style-type: none"> • Sea Fishing (Enforcement and Miscellaneous Provisions) Order 2015/191 • Sea Fishing (Points for Masters of Fishing Boats) Regulations 2014/3345 • Sea Fishing (Illegal, Unreported and Unregulated Fishing) Order 2009/3391 • Tope (Prohibition of Fishing) Order 2008/691 • Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007/1842 	
57 International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances (HNS) by Sea 1996	NYIF NONE		
58 Agreement on the Conservation of Cetaceans in the Black Sea, the Mediterranean Sea and the adjoining Atlantic 1996	Neither UK nor EU party NYIF NONE		
59 Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea 1997	<i>Could not locate list of signatories</i>		

60 Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000 (OPRC-HNS Protocol)	NONE		
61 The International Convention on the Control of Harmful Anti-Fouling Systems on Ships 2001	UK ratified and EIF 2010 UK ONLY		
62 The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships 2009	NYIF NONE		
63 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 ("London Protocol")	UK signed 1997, ratified 1998, EIF 2006 UK ONLY	<i>See London Convention 1972 (above)</i>	<i>See London Convention 1972 (above)</i>
64 FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas 1995	EU Accepted 1996, EIF 2003 EU ONLY 96/428/EC: Council Decision of 25 June 1996 on acceptance by the Community of the Agreement to promote compliance with	EU law: <ul style="list-style-type: none"> • Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy [...] • Regulation (EU) No 640/2010 of the European Parliament and of the Council of 7 July 2010 establishing a catch documentation programme for 	

	international conservation and management measures by fishing vessels on the high seas.	<p>bluefin tuna <i>Thunnus thynnus</i> and amending Council Regulation (EC) No 1984/2003</p> <ul style="list-style-type: none"> • Commission Regulation (EC) No 839/2002 of 21 May 2002 amending Regulation (EC) No 2090/98 concerning the fishing vessel register of the Community <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Fishing Boats Designation (England) Order 2015/648 • Sea Fishing (Enforcement and Miscellaneous Provisions) Order 2015/191 • Tope (Prohibition of Fishing) Order 2008/691 • Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007/1842 	
65 FAO Code of Conduct for Responsible Fisheries (1995)	<i>Cannot find signatories</i>		
66 Convention on the Conservation and Management of Fishery Resources in South-East Atlantic Ocean 2001 ("SEAFO")	<p>UK signed on behalf of St. Helena and its dependencies of Tristan da Cunha and Ascension Islands in 2001</p> <p>EU Signed 2001, accepted 2002, EIF 2003</p> <p>EU ONLY</p> <p>2001/319/EC: Council Decision of 29 January 2001 on the signing, on behalf of the European Community, of the Convention on the conservation and management of fishery</p>	<p>EU law:</p> <ul style="list-style-type: none"> • Council Regulation (EU) 2015/104 of 19 January 2015 fixing for 2015 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union vessels, in certain non-Union waters, amending Regulation (EU) No 43/2014 and repealing Regulation (EU) No 779/2014 • Council Regulation (EC) No 43/2009 of 16 January 2009 fixing for 2009 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required • Council Regulation (EC) No 41/2006 of 21 December 2006 fixing for 2007 the fishing opportunities and associated conditions for certain fish stocks and 	<p>Article 9 Compliance Committee</p> <p>Article 16 Compliance</p> <p>Article 23 implementation</p>

	resources in the South-East Atlantic Ocean	<p>groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required</p> <ul style="list-style-type: none"> • Council Regulation (EU) No 57/2011 of 18 January 2011 fixing for 2011 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in certain non-EU waters • Council Regulation (EU) No 23/2010 of 14 January 2010 fixing for 2010 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in waters where catch limitations are required and amending Regulations (EC) No 1359/2008, (EC) No 754/2009, (EC) No 1226/2009 and (EC) No 1287/2009 • Council Regulation (EU) 2017/127 of 20 January 2017 fixing for 2017 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters • Council Regulation (EC) No 40/2008 of 16 January 2008 fixing for 2008 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required • Council Regulation (EU) No 43/2014 of 20 January 2014 fixing for 2014 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, to Union vessels, in certain non-Union waters • Council Regulation (EU) 2016/72 of 22 January 2016 fixing for 2016 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2015/104 	
--	--	--	--

		<ul style="list-style-type: none"> • Council Regulation (EU) No 44/2012 of 17 January 2012 fixing for 2012 the fishing opportunities available in EU waters and, to EU vessels, in certain non-EU waters for certain fish stocks and groups of fish stocks which are subject to international negotiations or agreements • Council Regulation (EU) No 40/2013 of 21 January 2013 fixing for 2013 the fishing opportunities available in EU waters and, to EU vessels, in certain non-EU waters for certain fish stocks and groups of fish stocks which are subject to international negotiations or agreements <p><i>NB: UK implemented for St Helena and dependencies through the Conservation and Management of Fishery Resources Ordinance 2003. Not applicable to mainland.</i></p>	
67 FAO International Guidelines for the Management of Deep-sea fisheries in the High Seas (adopted 2009)	<i>Guidelines</i>		
68 FAO Voluntary Guidelines on Flag State Performance (2014)	<i>Guidelines</i>		
69 FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing 2009	<p>EU signed 2009, ratified 2011 and EIF 2016</p> <p>EU ONLY</p> <p>Council decision on the approval, on behalf of the European Union, of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal,</p>	<p>EU law:</p> <ul style="list-style-type: none"> • Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999. 	

	Unreported and Unregulated Fishing	<p>Secondary legislation:</p> <ul style="list-style-type: none"> • Sea Fishing (Enforcement and Miscellaneous Provisions) Order 2015/191 • Sea Fishing (Points for Masters of Fishing Boats) Regulations 2014/3345 • Sea Fishing (Illegal, Unreported and Unregulated Fishing) Order 2009/3391 	
--	------------------------------------	---	--

TRANSBOUNDARY POLLUTION

Convention	Competency	Implementation	Enforcement
70 Convention on Long-Range Transboundary Air Pollution 1979 ("LRTAP Convention")	<p>UK signed 1979, ratified 1982, EIF 1983</p> <p>EU signed 1979, acceptance 1982, EIF 1983</p> <p>MIXED AGREEMENT</p> <p>81/462/EEC: Council Decision of 11 June 1981 on the conclusion of the Convention on long-range transboundary air pollution</p>	<p><i>Note: includes legislation relating to all LRTAP protocols</i></p> <p>EU law:</p> <ul style="list-style-type: none"> • Directive 2016/802 relating to a reduction in the sulphur content of certain liquid fuels • Directive 2016/2284 on the reduction of national emissions of certain atmospheric pollutants. <i>Transposition deadline 30 June 2018 (implements revised reduction commitments for 2020 under the revised Gothenburg Protocol)</i> • Directive 2015/2193 on the limitation of emissions of certain pollutants into the air from medium combustion plants ("the MCP Directive"). <i>Transposition deadline 19 December 2017</i> • Commission Implementing Regulation 749/2014 on structure, format, submission processes and review of information reported by Member States pursuant to Regulation (EU) No 525/2013 of the European Parliament and of the Council • Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control) • Regulation 525/2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC • Directive 2008/50/EC on ambient air quality and cleaner air for Europe • Regulation 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) 	<p>Decision 1997/2 of the Executive Body of the Convention adopted a non-compliance procedure applicable to all the Protocols under the Convention. This creates an International Committee formed of eight Parties which periodically reviews compliance with the reporting requirements of the protocols to consider any submissions or referrals made to it concerning a Party's non-compliance with treaty obligations. The Committee is required to report and make recommendations annually to the Executive Body on cases of non-compliance. The decision does not expressly specify the range of measures that can be imposed on a Party in non-compliance.</p>

		<ul style="list-style-type: none"> • Regulation 850/2004 of the European Parliament and of the Council on persistent organic pollutants • Directive 2001/81/EC on national emission ceilings for certain atmospheric pollutants. <i>Partially repealed, see Directive 2016/2284</i> • Directive 94/63/EC on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations <p>Primary legislation:</p> <ul style="list-style-type: none"> • Environmental Protection Act 1990 <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Environmental Permitting (England and Wales) Regulations 2016/1154 • Large Combustion Plants (Transitional National Plan) Regulations 2015/1973 • Environmental Damage (Prevention and Remediation) (England) Regulations 2015/810 • Carbon Capture Readiness (Electricity Generating Stations) Regulations 2013/2696 • Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013/971 • Pollution Prevention and Control (Designation of the Industrial Emissions Directive) (Offshore) Order 2013/669 • Pollution Prevention and Control (Designation of Directives) (England and Wales) Order 2013/123 • Greenhouse Gas Emissions Trading Scheme Regulations 2012/3038 • Motor Fuel (Road Vehicle and Mobile Machinery) Greenhouse Gas Emissions Reporting Regulations 2012/3030 • Air Quality Standards Regulations 2010/1001 	
--	--	--	--

		<ul style="list-style-type: none"> • Pollution Prevention and Control (Designation of Directives) (England and Wales) Order 2010/75 • Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 (as amended) • Sulphur Content of Liquid Fuels (England and Wales) Regulations 2007/79 • Renewable Transport Fuel Obligations Order 2007/3072 • Persistent Organic Pollutants Regulations 2007/3106 • National Emission Ceilings Regulations 2002 • Graduated Vehicle Excise Duty (Prescribed Types of Fuel) Regulations 2001/93 • Motor Fuel (Composition and Content) Regulations 1999/3107 • The Petrol Vapour Recovery (Stage 1) (Local Enforcing Authorities) Direction and Notice 1996 • The Petrol Vapour Recovery (Stage 1) (Environment Agency) Direction and Notice 1996 • The Carriage of Dangerous Goods by Rail Regulations 1996 • The Carriage of Dangerous Goods by Road Regulations 1996 • The Carriage of Dangerous Goods by Rail Regulations 1994 • The Road Traffic (Carriage of Dangerous Substances in Road Tankers and Tank Containers) Regulations 1992 	
71 Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Long-Term Financing of the Co-operative Programme for monitoring and Evaluation of the Long-Range Transmission	<p>UK signed 1984, ratified 1985, EIF 1988</p> <p>EU signed 1984, acceptance 1986, EIF 1988</p> <p>MIXED AGREEMENT</p>	<i>See LRTAP Convention (above)</i>	<i>See LRTAP Convention (above)</i>

of Air Pollutants in Europe 1984 ("EMEP Protocol")	86/277/EEC: Council Decision of 12 June 1986 on the conclusion of the Protocol to the 1979 Convention on long-range transboundary air pollution on long-term financing of the cooperative programme for monitoring and evaluation of the long-range transmission of air pollutants in Europe (EMEP)		
72 Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution concerning the Control of Emissions of Nitrous Oxides or their Transboundary Fluxes 1988 ("NO _x Protocol")	UK signed 1988, ratified 1990, EIF 1991 EU accession 1993, EIF 1994 MIXED AGREEMENT 93/361/EEC: Council Decision of 17 May 1993 on the accession of the Community to the Protocol to the 1979 Geneva Convention on long-range transboundary air pollution concerning the control of emissions of nitrogen oxides or their transboundary fluxes	<i>See LRTAP Convention (above)</i>	<i>See LRTAP Convention (above)</i>

<p>73 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal 1990 ("Basel Convention")</p>	<p>UK signed 1989, ratified 1994, EIF 1994</p> <p>EU signed 1989, acceptance 1994, EIF 1994</p> <p>MIXED AGREEMENT</p> <p>Council Decision of 1 February 1993 on the conclusion, on behalf of the Community, of the Convention on the control of transboundary movements of hazardous wastes and their disposal (Basel Convention)</p>	<p>EU law:</p> <ul style="list-style-type: none"> • Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC • Directive 2014/24/EU on public procurement and repealing Directive 2004/18/EC • Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 • Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste. <i>Note: also incorporates the revision of the OECD's 2001 decision on the control of transboundary movements of wastes destined for recovery operations</i> <p>Secondary legislation:</p> <ul style="list-style-type: none"> • The Utilities Contracts Regulations 2016 • Environmental Damage (Prevention and Remediation) (England) Regulations 2015/810 • Public Procurement, The Public Contracts Regulations 2015/102 • Waste Electrical and Electronic Equipment Regulations 2013/3113 • Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013/971 • Pollution Prevention and Control (Designation of Directives) (England and Wales) Order 2013/123 • Storage of Carbon Dioxide (Inspections etc.) Regulations 2012/461 • Storage of Carbon Dioxide (Access to Infrastructure) Regulations 2011/2305 • Storage of Carbon Dioxide (Termination of Licences) Regulations 2011/1483 	<p>Article 4(4) requires each Party to "take appropriate legal, administrative and other measures to implement and enforce the provisions of this Convention, including measures to prevent and punish conduct in contravention of the Convention"</p> <p>Article 19 allows a Party which has reason to believe another Party is acting, or has acted, in breach of its obligation under the Convention to inform the Secretariat and simultaneously the relevant Party but does not specify what is to happen following such a notification.</p> <p>A "Mechanism for Promoting Implementation and Compliance" was established by Decision VI/12 of the Basel CoP in 2002.</p> <p>The mechanism establishes a Compliance Committee. The procedure is expressly non-binding in nature, as well as non-confrontational, transparent, cost-effective and preventative. It is intended to assist in resolving compliance difficulties by providing advice, non-binding recommendations and information and by making recommendations on further additional measures to the Basel CoP.</p>
--	---	--	---

		<ul style="list-style-type: none"> • Storage of Carbon Dioxide (Licensing etc.) Regulations 2010/2221 • Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009/995 • Waste Batteries and Accumulators Regulations 2009/890 • Provision of Services Regulations 2009/2999 • Transfrontier Shipment of Waste Regulations 2007/1711 • Persistent Organic Pollutants Regulations 2007/3106 • Producer Responsibility Obligations (Packaging Waste) Regulations 2007/871 • Hazardous Waste (England and Wales) Regulations 2005/894 	
<p>74 Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution concerning the Control of Emissions of Volatile Organic Compounds or their Transboundary Fluxes ("VOC Protocol")</p>	<p>UK signed 1991, ratified 1994, EIF 1997</p> <p>EU signed 1991, EIF [?]</p> <p>MIXED AGREEMENT(?)</p> <p>EU Declaration of Competency (not found)</p> <p><i>Note: EU Treaties Office says EIF 1997 but no record of Council Decision on this protocol.</i></p> <p><i>Link to EU Declaration of Competency not working.</i></p> <p><i>EcoLex only records EU having made simple signature, not acceded or EIF.</i></p>	<p><i>See LRTAP Convention (above)</i></p>	<p><i>See LRTAP Convention (above)</i></p> <p><i>Note: in 1991 the decided to include in the VOC Protocol a provision on compliance. Article 3(3) of the VOC Protocol empowers the Executive Body to receive and decide upon cases referred to it by Parties with regard to non-compliance by other Parties. Now replaced by Decision 1997/2 to the LRTAP Convention.</i></p>

<p>75 Convention on the Protection and use of Transboundary Watercourses and International Lakes 1992 ("the Water Convention")</p>	<p>UK signed 1992, not ratified EU signed 1992, acceptance 1995, EIF 1996</p> <p>EU ONLY</p> <p><u>EU Declaration of Competency</u></p> <p>Council Decision 95/308/EC on the conclusion, on behalf of the Community, of the Convention on the protection and use of transboundary watercourses and international lakes</p>	<p>EU law:</p> <ul style="list-style-type: none"> • Directive 2000/60/EC establishing a framework for Community action in the field of water policy <p>Secondary Legislation:</p> <ul style="list-style-type: none"> • The Water Environment (Water framework Directive)(England and Wales) Regulations 2003/3242 • Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003 • The Water Environment (Water framework Directive)(Solway Tweed River Basin District) Regulations 2004 • Water Framework Directive (Groundwater Quality) Directions 2005 	<p>The Implementation Committee under the Water Convention was established at the 6th MOP in 2012 which adopted <u>decision VI/1</u> on support to implementation and compliance.</p> <p>The objective of the mechanism is to facilitate, promote and safeguard the implementation and application and compliance with the Water Convention. The mechanism is to be simple, non-confrontational, non-adversarial, transparent, supportive and cooperative in nature, building on the distinctive collaborative spirit of the Convention.</p>
<p>76 Convention on the Transboundary Effects of Industrial Accidents 1992</p>	<p>UK signed 1992, ratified 2002, EIF 2002 EU signed 1992, acceptance 1998, EIF 2000</p> <p>MIXED AGREEMENT</p> <p><u>EU Declaration of Competence</u></p> <p>Council Decision of 23 March 1998 concerning the conclusion of the Convention on the Transboundary Effects of Industrial Accidents</p>	<p>EU law:</p> <ul style="list-style-type: none"> • 2014/896/EU: Commission Implementing Decision of 10 December 2014 establishing the format for communicating information from Member States on the implementation of Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances • 2014/895/EU: Commission Implementing Decision of 10 December 2014 establishing the format for communicating the information referred to in Article 21(3) of Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances • Regulation (EU) No 1293/2013 of the European Parliament and of the Council of 11 December 2013 on the establishment of a Programme for the 	<p>No compliance mechanisms exist. The convention is technical and focuses on the implementation phase.</p> <p>The convention contains an article where dispute settlement is regulated.</p> <p>Report on implementation is due every two years. The reporting obligations are not taken seriously by the parties.</p> <p>Lack of an adequate enforcing mechanism which should involve all authorities which have the competence with the issue at stake.</p> <p>The only tool the convention authorities have in order to compel the convention parties to meet their obligations is to present the report at the COP and have a decision of the COP urging parties to comply.</p>

		<p>Environment and Climate Action (LIFE) and repealing Regulation (EC) No 614/2007</p> <ul style="list-style-type: none"> • Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC • Directive 2012/18/EU on the control of major-accident hazards involving dangerous substances, amending ("Seveso III Directive") <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Control of Major Accident Hazard Regulations 2015/325 • The Planning (Hazardous Substances) Regulations 2015/627 	<p>Inquiry commission procedure in Art 4(2) and Annex II that is almost identical to that found in the Espoo Convention.</p> <p><i>See also (NYIF) Protocol on Civil Liability and Compensation for Damage Caused by the Transboundary Effects of Industrial Accidents on Transboundary Waters to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes and to the 1992 Convention on the Transboundary Effects of Industrial Accidents</i></p>
<p>77 Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Further Reduction of Sulphur Emissions</p>	<p>UK signed 1994, ratified 1996, EIF 1998</p> <p>EU signed 1992, acceptance 1998, EIF 2000</p> <p>MIXED AGREEMENT</p> <p>Council Decision of 23 March 1998 on the conclusion by the European Community of the Protocol to the 1979 Convention on long-range transboundary air pollution on further reductions of sulphur emissions; OJ L 326 of 03/12/1998, p.34</p>	<p><i>See LRTAP Convention (above), particularly, Directive 2016/802 relating to a reduction in the sulphur content of certain liquid fuels (codification)</i></p>	<p><i>See LRTAP Convention (above)</i></p>

78 Amendment to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal 1995	UK Signed 1997 EU Accepted 1997 NONE NYIF		
79 Convention on the Law of the Non-navigational Uses of International Watercourses 1997	UK accession 2013, EIF 2014 UK ONLY	None found	
80 Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Persistent Organic Pollutants 1998	UK signed 1998, ratified 2005 and EIF 2005 EU signed 1998, acceptance 2004, EIF 2004 MIXED AGREEMENT Council Decision (EU) 2016/769 of 21 April 2016 on the acceptance of the Amendments to the 1998 Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Persistent Organic Pollutants	<i>See LRTAP Convention (above)</i>	<i>See LRTAP Convention (above)</i>
81 Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Heavy Metals	UK signed 1998, ratified 2005, EIF 2005 EU signed 1998, acceptance 2001, EIF 2003	<i>See LRTAP Convention (above)</i>	<i>See LRTAP Convention (above)</i>

	MIXED AGREEMENT Council Decision (EU) 2016/768 of 21 April 2016 on the acceptance of the Amendments to the 1998 Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Heavy Metals		
82 Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-Level Ozone (Gothenburg Protocol)	UK signed 1999, ratified 2005, EIF 1996 EU accession 2003, EIF 2005 MIXED AGREEMENT 2003/507/EC: Council Decision of 13 June 2003 on the accession of the European Community, to the Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-Level Ozone	See LRTAP Convention (above)	See LRTAP Convention (above)
83 Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes 1999	UK signed 1998 but not ratified EU has not signed NONE	n/a	n/a

84 Amendments to Articles 25 and 26 of the Convention on the Protection and Use of Transboundary Watercourses and International Lakes 2004	EU ratified 2013, EIF 2013 EU ONLY Council Decision of 13 December 2013 on the acceptance on behalf of the European Union of the Amendment to Articles 25 and 26 of the Convention on the Protection and Use of Transboundary Watercourses and International Lakes	<i>See the Water Convention (above)</i>	<i>See the Water Convention (above)</i>
85 Basel Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and Their Disposal 1999	UK signed 2000, NYIF NONE	n/a	n/a
86 Convention on Persistent Organic Pollutants 2001 ("Stockholm Convention on POPs")	UK signed 2001, ratified 2005, EIF 2005 EU signed 2001, agreement 2004, EIF 2005 MIXED AGREEMENT EU Declaration of Competence	Council Decision of 14 October 2004 concerning the conclusion, on behalf of the European Community, of the Stockholm Convention on Persistent Organic Pollutants Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC (as amended). In England implemented by: <ul style="list-style-type: none"> • Persistent Organic Pollutants Regulations 2007/3106 	

<p>87 Protocol on Civil Liability and Compensation for damage caused by the Transboundary Effects of Industrial Accidents on Transboundary Waters to the 1992 Convention on the Protection and use of Transboundary Watercourses and International Lakes and to the 1992 Convention on the Transboundary effects of Industrial Accidents</p>	<p>UK signed 2003, NYIF NYIF</p>	<p>n/a</p>	<p>n/a</p>
<p>88 Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade 1998 ("the Rotterdam Convention")</p>	<p>UK signed 1998, ratified 2004, EIF 2004 EU signed 1998, acceptance 2002, EIF 2004 MIXED AGREEMENT <u>EU Declaration of Competence</u> Council Decision of 19 December 2002 concerning the approval, on behalf of the European Community, of the Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous chemicals and pesticides in international trade</p>	<p>EU law:</p> <ul style="list-style-type: none"> • Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC • Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC • Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Chemicals (Hazard Information and Packaging for Supply) Regulations 2009/716 • Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013/1506 	<p>Article 15(1) states: "Each Party shall take such measures as may be necessary to establish and strengthen its national infrastructures and institutions for the effective implementation of this Convention. These measures may include, as required, the adoption or amendment of national legislative or administrative measures and may also include: [...] national registers and databases [...] initiatives by industry [...] and the promotion of voluntary agreements ..."</p>

NUCLEAR SAFETY

Convention	Competency	Implementation	Enforcement
89 Convention on Third Party Liability in the Field of Nuclear Energy 1960 ("Paris Convention on Nuclear Third Party Liability")	UK signed 1960, ratification 1966, EIF 1968 UK ONLY	Primary legislation: <ul style="list-style-type: none"> • Wreck Removal Convention Act 2011 • Energy Act 2004 • Merchant Shipping Act 1995 • Nuclear Installations Act 1965 Secondary legislation: <ul style="list-style-type: none"> • Nuclear Installations (Liability for Damage) Order 2016/562 • Environmental Damage (Prevention and Remediation) (England) Regulations 2015/810 • Nuclear Installations (Excepted Matter) Regulations 1978/1779 	
90 Convention Supplementary to the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy with Additional Protocol	UK signed 1963, ratified 1966 UK ONLY	<i>See Paris Convention on Nuclear Third Party Liability (above)</i>	<i>See Paris Convention on Nuclear Third Party Liability (above)</i>
91 Vienna Convention on Civil Liability for Nuclear Damage 1963 (and Optional Protocol to the Vienna Convention on Civil Liability for Nuclear Damage concerning the Compulsory Settlement of Disputes)	UK signed 196, <i>NYIF</i> NONE	n/a	n/a

92 Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water 1963 (Partial Nuclear-Test-Ban Treaty or “PTBT”)	UK signed, ratified and EIF 1963 UK ONLY	<i>Out of scope</i>	<i>Out of scope</i>
93 Convention on the Physical Protection of Nuclear Material 1979	UK signed 1980, ratified and EIF 1991 Euratom ratification and EIF 1991 MIXED AGREEMENT Council Decision of 9 June 1980 approving the conclusion by the Commission of the International Convention on the physical protection of nuclear material	None found	
94 Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency 1986	UK signed 1986, ratified and EIF 1990 Euratom accession and EIF 2006 MIXED AGREEMENT	None found	

95 Convention on Early Notification of a Nuclear Accident 1987	UK signed 1986, ratified and EIF 1990 Euratom notification UK ONLY	None found	
96 European Energy Charter 1991	UK signed and EIF 1991 EU signed and EIF 1991 Euratom signed and EIF 1991 MIXED AGREEMENT Council Decision of 15 December 1994 on the provisional application of the Energy Charter Treaty by the European Community Council and Commission Decision of 23 September 1997 on the conclusion, by the European Communities, of the Energy Charter Treaty and the Energy Charter Protocol on energy efficiency and related environmental aspects	None found	
97 Comprehensive Nuclear-Test-Ban Treaty 1996 ("CTBT")	UK signed 1996, ratified 1998, <i>NYIF</i> NYIF	<i>Out of scope</i>	<i>Out of scope</i>

<p>98 Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organisation on the conduct of activities, including post-certification activities, relating to international monitoring facilities for the Comprehensive Nuclear-Test-Ban Treaty</p>	<p>UK signed 1999, EIF 2004</p> <p>UK ONLY</p>		
<p>99 Convention on Nuclear Safety 1994</p>	<p>UK signed 1994, ratified and EIF 1996</p> <p>Euratom accession and EIF 2000</p> <p>MIXED AGREEMENT</p> <p><u>Declaration of EU competence</u></p> <p>Commission Decision of 16 November 1999 concerning the accession to the 1994 Convention on Nuclear Safety by the European Atomic Energy Community (Euratom)</p>	<p>EU law:</p> <ul style="list-style-type: none"> • Council Directive 2014/87/Euratom of 8 July 2014 amending Directive 2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations • Council Regulation (Euratom) No 237/2014 of 13 December 2013 establishing an Instrument for Nuclear Safety Cooperation • Council Directive 2009/71/Euratom of 25 June 2009 establishing a Community framework for the nuclear safety of nuclear installations <p>Primary legislation:</p> <ul style="list-style-type: none"> • Criminal Justice and Immigration Act 2008 • Nuclear Material (Offences) Act 1983 <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Extradition Act 2003 (Parties to International Conventions) Order 2005/46 	

<p>100 Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management 1997</p>	<p>UK signed 1997, ratified and EIF 2001</p> <p>Euratom accession 2005, EIF 2006</p> <p>MIXED AGREEMENT</p> <p>Council Decision of 24 January 2005 approving the accession of the European Atomic Energy Community to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management</p> <p>Commission Decision of 14 June 2005 concerning the accession of the European Atomic Energy Community to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management</p>	<p>Secondary legislation:</p> <ul style="list-style-type: none"> • Transfrontier Shipment of Radioactive Waste and Spent Fuel Regulations 2008/3087 	
<p>101 Framework Agreement on a Multilateral Nuclear Environment Programme in the Russian Federation 2003</p>	<p>UK signed 2003, ratified and EIF 2006</p> <p>EU signed 2003, ratified and EIF 2007</p> <p>Euratom signed 2003, ratified and EIF 2008</p> <p>MIXED AGREEMENT</p>	<p>None found</p>	

<p>102 Protocol on claims, legal proceedings and indemnification to the framework agreement on a multilateral nuclear environmental programme in the Russian Federation</p>	<p>UK EU signed 2003, ratified and EIF 2006</p> <p>EU signed 2003, ratified and EIF 2007</p> <p>Euratom signed 2003, ratified and EIF 2008</p> <p>MIXED AGREEMENT</p>	<p><i>See framework agreement on a multilateral nuclear environmental programme in the Russian Federation (above)</i></p>	
<p>103 International Energy Charter 2015</p>	<p>UK signed and EIF 2015</p> <p>Euratom signed and EIF 2015</p> <p>MIXED AGREEMENT</p>	<p><i>None found</i></p>	



UKELA is grateful to the Economic and Social Research Council
for their assistance in publishing these reports.

Brexit and Environmental Law: The UK and International Environmental Law after Brexit

It is the Government's intention that following withdrawal from the European Union the United Kingdom will remain bound by its existing international obligations. However, achieving this may not be straightforward. *The UK and International Environmental Law after Brexit* is based on a mapping exercise that the UK Environmental Law Association has undertaken of all international environmental agreements that the UK is currently bound by and how each has been implemented through EU and domestic legislation. This research is set out in a comprehensive annex.

The report analyses how each of these international environmental agreements have been entered into and which agreements the UK will continue to be bound by after withdrawing from the EU. If the UK ceases to be bound by some of these agreements then the backstop they provide in terms of environmental obligations, rights and minimum standards will be lost. The report raises concerns that the extent of this loss remains unknown, as the future status of mixed agreements remains uncertain and the Government has made no statement in relation to agreements which the EU alone has entered into.

The report then examines how agreements have been incorporated into domestic law and implemented in the UK. Analysing this data, the report identifies specific issues which need to be addressed in the European Union (Withdrawal) Bill in relation to the body of retained EU law (converted EU law and preserved domestic law) which implements international environmental agreements. It ends by looking at the possibilities and limitations of enforcing international environmental agreements, both through external enforcement mechanisms and through judicial review.

September 2017

The UK Environmental Law Association (UKELA) is the foremost body of environmental lawyers in the UK. UKELA aims to promote better law for the environment and to improve understanding and awareness of environmental law.

UKELA remained neutral on the Brexit Referendum. UKELA's Brexit Task Force was established in September 2016 to advise on all matters relating to and arising from the UK's decision to leave the European Union insofar as this impacts environmental law, practice and enforcement in the UK.

The Task Force has been examining the legal and technical implications of separating our domestic environmental laws from the European Union and the means by which a smooth transition can be achieved. The Task Force aims to inform the debate on the effect that withdrawal from the EU will have, and to draw attention to potential opportunities and problems which may arise.

This report is printed on sustainably sourced paper.

Registered charity number: 299498 (Registered in England and Wales)
Company listed by guarantee: 2133283 (Registered in England and Wales)



ISBN 978-1-9997986-2-8



9 781999 798628 >