

BREXIT AND CLIMATE COOPERATION: IMPLICATIONS FOR THE PARIS AGREEMENT
AND NET-ZERO

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BREXIT AND CLIMATE COOPERATION IMPLICATIONS FOR THE PARIS AGREEMENT AND NET-ZERO

SHANE TOMLINSON

Executive Summary

The EU and UK have both stated that they would like to see close cooperation on climate change issues as part of the future relationship agreement post-Brexit. However, to date there has been very little detail on how this will be operationalised in practice. The UK is currently part of the joint EU Nationally Determined Contribution (NDC) that was submitted to the Paris Agreement. Both the EU and UK are also looking at ways to increase their climate ambition, including a possible move to a “net-zero” long-term goal for emissions reductions. A negotiated solution to the Brexit process would result in a transition period to the end of 2020, where the UK would remain part of the core EU economic mechanisms but no longer have decision making powers on its governance.

This raises three core issues: How will the EU and UK cooperate on climate change and energy during the transition period and what does this mean for the current NDC? How will increased ambition, including the consideration of moving to a ‘net zero’ target before 2050, in line with the Paris Goals be operationalised? What will be the key arrangements for long-term climate and energy cooperation post 2020?

To address these questions, we recommend that the following actions are taken forward.

Transition phase recommendations:

- Urgently clarify the working arrangements during the transition and whether the UK will pursue an independent climate diplomacy strategy or continue to coordinate with the EU-27;
- The EU and UK should hold a joint press conference at COP 24 in Katowice and immediately after the end of the Article 50 period to clarify that there will be no rollback on climate ambition in the current NDC, and communicate transition arrangements to other Parties;

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- The EU and UK should continue to coordinate action during the transition period with a view to both switching to a ‘net-zero’ long-term goal and communicating increased ambition at the UNSG Special Summit in September 2019;
 - The UK should clarify how it will report on meeting its existing international obligations during the transition period, including under the Kyoto Protocol;
 - In its clarification of joint actions with Norway and Iceland the EU should consider any relevant applications for the UK during the transition; and
 - The EU and UK should discuss contingency plans for climate change in the event that the transition period is extended beyond December 2020.

Future relationship negotiation recommendations:

- The EU and UK should agree to strategically link climate and energy negotiations as part of the future relationship statement. This will be vital to manage the linkages in key areas such as emissions trading;
- The EU and UK should agree a broad scope for climate cooperation. This should include mechanisms to coordinate climate diplomacy alongside both emissions trading, effort sharing regulation and land-use, land-use change and forestry;
- The future relationship statement that will be agreed as part of the Article 50 process should include a climate and energy [chapter/section] and make clear references to continued delivery with regard to the Paris Agreement;
- During the transition period the EU and UK should try and achieve the highest possible levels of cooperation on climate change and energy as this will maximize benefits for citizens on both sides;
- A decision by the UK to set out an independent nationally determined contribution (NDC) is still compatible with high levels of climate cooperation. Lessons from the current Norway and Iceland NDCs provide examples of joint action with the EU to fulfil climate goals;
- However, the UK and EU should also put in place contingency plans to try and minimize the impact of a no deal scenario.

Introduction

The Article 50 process is expected to result in three linked elements: the withdrawal agreement; the transition agreement, also referred to by the UK as the ‘implementation agreement’; and a statement on the future relationship. The majority of climate change issues will be dealt with under the future relationship negotiations. The expectation is that the future relationship outcome will be a non-binding political statement setting out the “heads of agreement” in advance of the UK exit in March 2019. The political statement will then be elaborated during the transition period into a legally binding agreement (or potentially multiple agreements depending on the nature of the future relationship) and implemented after December

2020. There remains a real danger that the Article 50 process collapses and results in a 'no deal' outcome, which would have massive economic and political ramifications especially in the UK. This would be highly damaging to UK and EU climate cooperation.

How climate change is positioned within the future relationship negotiations will be important to enable both the EU and UK to drive forward climate ambition in the context of the Paris Agreement. The UK is currently part of the joint EU Nationally Determined Contribution (NDC). Brexit is likely to create considerable uncertainty for other countries over the status of the EU NDC going forward, especially as the UK contributes an above average share of the at least 40% reduction by 2030 from a 1990 baseline. However, the future success of the Paris Agreement requires more than just clarifying existing targets. Current global ambition is not sufficient to keep the long-term goal of limiting global temperature increases to well below 2°C above pre-industrial levels, and make best efforts to achieve 1.5°C, within reach. Action by the EU and UK, alongside other major emitters such as China, by 2020 will be vital to increase action either by increasing NDC ambition or through sectoral targets such as coal phase out.

The Brexit negotiations on the future relationship for climate change thus need to set out a dynamic process of cooperation that can enhance ambition in both the EU and UK by 2020, facilitate diplomatic engagement and send clear signals to other global leaders to do the same. This is particularly important ahead to the UN Secretary General's (UNSG) Special Summit on Climate Change that is scheduled for September 2019 and where heads of state from both the EU and UK are expected to attend. The European Commissioner for Climate Action and Energy, Miguel Arias Canete, has signalled the EU's desire to increase 2030 ambition and consider moving to a net-zero long-term target. The UK has also stated its desire to remain a climate leader and has indicated that it will consider a net-zero goal.

EU and UK Positions on climate cooperation

The EU and UK have both stated that they would like to see close cooperation on climate change as part of the future relationship statement. The negotiating guidelines adopted by the European Council in March 2018 state:¹ *Para 9: "The future partnership should address global challenges, in particular in the areas of climate change and sustainable development, as well as cross-border pollution, where the Union and the UK should continue close cooperation."*

Similarly, the UK White Paper sets out a desire for a broad agreement on climate cooperation:² *Para 120 "The UK recognizes the UK's and the EU's shared interest in global action on climate change and the mutual benefits of a broad agreement on*

¹ European Council, 23 March 2018 EUCO XT 2001/18 European Council (Art. 50) – Guidelines

² HM Government (July 2018) *The Future Relationship Between the United Kingdom and the European Union*

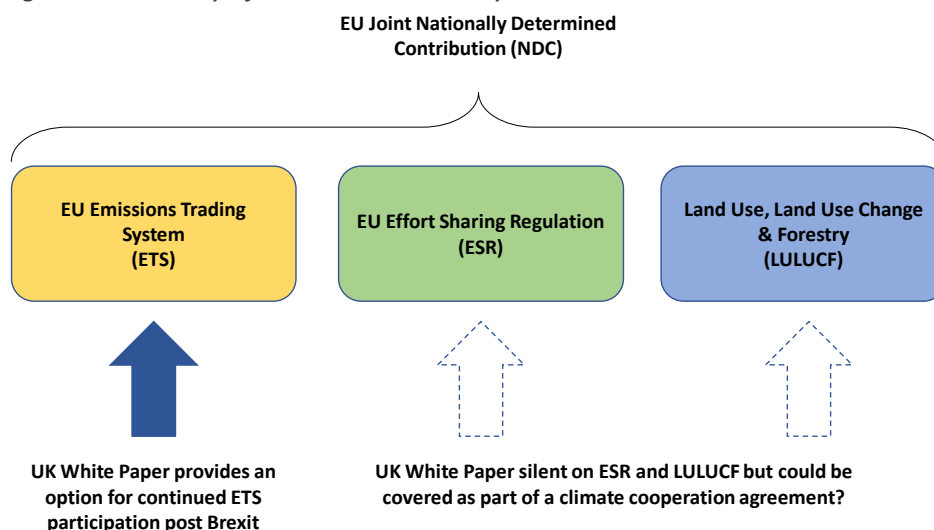
climate change cooperation. The UK’s world leading climate ambitions are set out in domestic law and are more stretching than those that arise from its current obligations under EU law. The UK will maintain these high standards after withdrawal.”

Although both statements are welcome, there has so far been little detail on how this shared desire for climate cooperation will be operationalised. This raises three core issues:

- How will the EU and UK cooperate during the transition period and what does this mean for the current NDC?
- How will increased ambition, including the consideration of moving to a ‘net zero’ target before 2050, in line with the Paris Goals be operationalised?
- What will be the key arrangements for long-term cooperation post 2020?

At present the European Union has submitted a single joint NDC to the Paris Agreement setting out its headline target of an “at least 40% reduction by 2030”, which was formally approved at the Environment Council on 6th March 2015. As shown in figure 1 below the delivery of the NDC emissions reduction is divided across the EU Emissions Trading System (EU ETS) covering power, heat, energy intensive industry sectors and commercial aviation; the Effort Sharing Regulation (ESR) covering non-traded sectors including households and transport; and land-use, land-use change and forestry (LULUCF). Under both the ESR and LULUCF there are a range of policies and measures to support delivery. In particular the strong link with energy targets where the new EU deal on energy efficiency and renewable energy targets for 2030 is likely to drive higher levels of climate ambition.³

Figure 1: Summary of current NDC delivery mechanisms



³ http://europa.eu/rapid/press-release_STATEMENT-18-4155_en.htm

The UK White Paper on the future relationship sets out an option for continued participation in the ETS post Brexit under para 140 of the electricity and gas section:⁴ *“An alternative option would be for the UK to participate in the IEM to preserve the existing efficient trading practices over interconnectors. In this case, the UK would need a common rulebook with the EU on the technical rules for electricity trading, such as the market coupling mechanism – as well as a consistent approach to carbon pricing necessary for the market to function, which, for example, could be delivered by remaining in the EU’s Emissions Trading System.”*

However, the UK White Paper is silent on both Effort Sharing Regulation and LULUCF. Both areas could potentially be addressed under the broader heading of climate cooperation, but without further details it is currently uncertain what will happen. The EU negotiating mandate does not provide any details for either ETS, ESR or LULUCF.

The positions of Norway and Iceland provide a potentially interesting parallel to the Brexit discussions. Both countries have submitted their own individual NDCs and state their intention to jointly act with the EU, and both countries also participate in the ETS at present. The Paris Agreement requires countries to communicate the ‘terms’ of any joint actions. Now that the Climate and Energy package legislation is finalised it is anticipated that the EU, Norway and Iceland are expected in the near term to communicate the terms of their joint agreement. This may provide greater detail on potential options for UK-EU cooperation post Brexit.

Maintaining the integrity of the current 2030 target

The UK currently contributes an above average share of effort to meeting the at least 40% reduction by 2030. The UKs domestic legislation under the Climate Change Act commits it to a 57% reduction in emissions below 1990 levels by 2032.⁵ Although this includes the use of international credits which the EU has tighter rules over, and so the UK share of the EU target implies a reduction of 53%.

If the UK did not act jointly with the EU under the Paris Agreement following Brexit this would potentially create a shortfall for the EU in achieving the current 2030 NDC. The options to address this would be for the remaining EU-27 countries to increase their action to make up for the shortfall created by the UK, to change the terms of its target to allow the purchase of international credits, or to accept a reduced target for the EU-27. The risk that the EU could be seen to be potentially weakening its target through the creation of ‘hot air’ would send a very negative signal to other international countries at a crucial moment for the Paris Agreement.

⁴ HM Government (July 2018) *The Future Relationship Between the United Kingdom and the European Union*

⁵ <https://www.gov.uk/guidance/carbon-budgets>

The status of the current EU NDC while the Brexit negotiations take place has the potential to cause considerable confusion. Early action by the EU and UK to explain the current position and reassure other stakeholders that there would be no rollback of current climate ambition would be extremely useful and COP 24 in December 2018 provides a good opportunity to do this.

The European Commission has already indicated that it intends to re-open the existing NDC, including consideration of a 45% target for 2030,⁶ and options to move to a new long-term goal for net-zero emissions are discussed below in more detail.

EU and UK climate cooperation during the transition period

At present there is some uncertainty as to how EU and UK climate diplomacy will operate during the transition period from March 2019-December 2020. The draft transition agreement means that the UK will continue to be able to participate in the core economic mechanisms of the EU, including the single market and internal energy market, but removes the UK's decision making authority from EU institutions. This would result in a position where the UK will remain part of the key climate delivery mechanisms including the ETS, ESR and LULUCF but would have no say over how they function.

At the UNFCCC this raises the question as to whether the UK will pursue an independent climate diplomacy strategy or remain part of the EU negotiating block? The EU is a Party to the UNFCCC but does not have a separate vote from its members.⁷ This has the potential to create confusion as the UK will exit the EU in March 2019 but remain tied to all the EU's climate delivery mechanisms during the transition. As a party to the UNFCCC in its own right, the UK could seek to pursue its own climate diplomacy strategy from exit day in March 2019, in a similar fashion to Norway. However, there may be an option for the UK to retain observer status within the EU coordination processes and hence operate closer to the current status quo and remain within the common EU negotiating position. The status of the UK during the transition period may also impact on how it reports and complies with its pre-2020 obligations, including those under the Kyoto Protocol. COP24 provides an important opportunity to communicate how transition arrangements will operate and to manage expectations among other stakeholders.

Although the transition period is scheduled to end in December 2020 there is a possibility that it could be extended. The current timelines to reach agreement and ratification on the future relationship are ambitious compared to other processes. The Swiss sectoral arrangements were negotiated over a period of 12 years and the Canada Free Trade Agreement (FTA) has taken more than 7 years and remains

⁶ http://europa.eu/rapid/press-release_SPEECH-18-4447_en.htm

⁷ <https://unfccc.int/process-and-meetings/parties-non-party-stakeholders/parties/party-groupings>

unratified.⁸ Thus whatever is agreed in transition period could remain in place for a considerable period of time.

Increasing ambition to achieve ‘net-zero’ emissions before mid-century

Although ensuring there is no rollback in the current 2030 target and establishing working relations during the transition period will be important it is not enough to keep the Paris Agreement on track. The combined actions of all current NDCs fall well short of the Paris Agreement goals of achieving a well below 2°C pathway and achieving a balance between anthropogenic emissions from sources and removals by sinks (often referred in short-hand as ‘net-zero’ emissions) in the second half of the century.⁹ The Decision adopting the Paris Agreement “*Invites Parties to communicate, by 2020, to the secretariat mid-century, long-term low greenhouse gas emission development strategies*” and Paragraph 25 of the Paris Agreement “*Decides that Parties shall submit to the secretariat their nationally determined contributions referred to in Article 4 of the Agreement at least 9 to 12 months in advance of the relevant meeting of the Conference of the Parties*”.¹⁰ This means that submissions will have to be made by the end of Q1 2020, during the Brexit transition period. In this context both the EU and UK are considering revising their long-term decarbonisation trajectories to make them compatible with net-zero.

Both the EU and UK processes are in an early stage, meaning that there is considerable uncertainty on the timelines and eventual outcomes. However, as shown in figure 2 below both processes could be timed to reach announcements at the UN Secretary Generals (UNSG) Special Summit in September 2019 which would maximise impact on the global process.

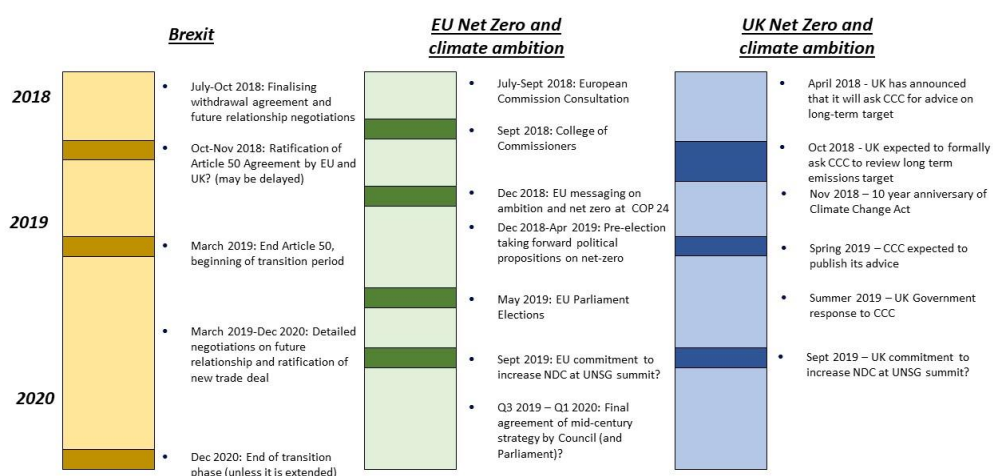
The EU process has already begun and the European Commission is undertaking a consultation on long-term targets which will include consideration of a net-zero target. This strategy will be at the EU level only and means that all remaining 27 Member States will have a collective responsibility to deliver it. This is likely to be picked up at the college of commissioners in September ahead of a likely presentation of the strategy at COP 24 in Katowice in December 2018. Formal endorsement by member states and the Parliament is expected in the following months. The case for a net-zero target will have to be discussed and taken forward in 2019, especially with regard to the position taken by the different political groups of the European Parliament ahead of elections in May. If this is favorable this may allow the EU to signal an intent at the UNSG Special Summit in September 2019 ahead of final agreement to a mid-century strategy by Council (and the European Parliament?) by Q1 2020.

⁸ Froggatt, A. Raines T. & Tomlinson, S. (2016) *UK Unplugged? The Impacts of Brexit on Energy and Climate Policy*

⁹ <https://climateactiontracker.org/global/cat-emissions-gaps/>

¹⁰ <https://unfccc.int/resource/docs/2015/cop21/eng/l09r01.pdf>

Figure 2: Potential timelines for EU and UK to reach net-zero decisions by UNSG summit in Sept 2019



For the UK the Government has made a public statement that it will ask the Climate Change Committee (CCC) for advice on moving to net-zero, it has not formally done so yet. This is now expected to happen in October. The CCC would then be expected to publish its advice to the government in 2019, possibly at some point during April, enabling the Government to formally respond in the summer. This could then also culminate in an announcement at the UNSG special summit in September 2019 at the same time as the EU.

It will be important to align discussions of moving to net-zero alongside the Brexit negotiations to ensure that there is no negative impact from Brexit on the ability of either the EU or UK to increase its long-term ambition. There would be significant benefit to close cooperation between the EU and UK during this period and thus providing an early signal on the climate change aspects of the future relationship agreement should be prioritised. The EU and UK should also coordinate efforts to engage other major emitters, such as China and India, to ensure that they also increase ambition in line with Paris Agreement goals.



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Options for long-term climate cooperation

There are a range of potential outcomes for long-term climate cooperation between the EU and UK post-Brexit. This ranges from very close relationships with active participation by the UK in current EU climate mechanisms, too much looser relationships with a higher degree of independence and also the potential of having to manage a crash Brexit scenario in the event that no deal can be reached during the Article 50 period.

A critical issue will be defining the potential scope of climate cooperation and how it is positioned relative to other issues. To maximize the potential benefits to both sides this scope should initially be very broad, covering at a minimum the core mechanisms of the future of the Emissions Trading System, Effort Sharing Regulation and land-use, land-use change and forestry as well as diplomatic coordination in engaging with other third countries. Given the synergies with energy interconnection there would be significant benefits from strategically linking climate and energy issues and covering them as a single negotiating track.¹¹

Whether or not the UK will need to submit an independent NDC to the UNFCCC is still under consideration, but under many scenarios this may well prove to be the case. However, the submission of a new UK NDC would not rule out high levels of climate cooperation. Just as in the case of Norway and Iceland at the moment the UK and EU would be free to state their intention to jointly act with each other if they so desired.

The outcome on climate cooperation will need to be consistent with the broader objectives and red-lines that both the EU and UK have established for the negotiation as a whole.

Key issues for the EU for the future relationship include: Avoiding ‘cherry picking’ and the indivisibility of the four freedoms; That a non-Member State country cannot enjoy the same rights and benefits as a Member State country; Maintaining a level playing field and avoiding weakening of environmental standards; and ensuring any agreement is consistent with the Good Friday Agreement between the Republic of Ireland and Northern Ireland.

For the UK key issues include: Maintaining the ability to sign trade-deals with third countries (although this may be limited to services rather than goods); Having the independence to create domestic laws and avoiding being a pure ‘rule taker’; and also ensuring any agreement is consistent with the Good Friday Agreement between the Republic of Ireland and Northern Ireland.

¹¹ For further details see https://www.e3g.org/docs/E3G_Brexit_climate_and_energy_future_relationship_16_03_2018.pdf

There are also likely to be a number of climate specific areas that will create tension in the negotiations. For example the UK White Paper states that with regard to participation in the Internal Energy Market (IEM) “*However, the UK does not believe that participation in the IEM should require a common rulebook on wider environmental and climate change rules*”.¹² This has direct implications for renewables and energy efficiency targets, of which the UK has had a long standing opposition to the EU setting binding targets at the national level (the current system of having collective EU targets was in part created to accommodate the UK).

These, and other issues will all require careful resolution in the future relationship negotiations. However, it is possible to characterise a range of potential outcomes.

Option 1: High cooperation

Key features:

- Creation of joint Ministerial Council on climate change between UK and EU to coordinate diplomatic action;
- EU and UK submit new NDCs to the Paris Agreement by Q1 2020 stating their intention to cooperate and jointly fulfil delivery;
- UK continues to participate in all core mechanisms including IEM, ETS, ESR and LULUCF;
- The ‘common rulebook’ (or another mechanism if the UK proposal is rejected) is extensive covering the whole climate and energy acquis communautaire;
- UK retains some say in technical bodies, such as ENTSO-E and ENTSO-G over energy interconnection, but has no say over EU Council decisions etc.;
- Enforcement through EFTA court docking

Advantages:

This option provides the strongest levels of climate cooperation. There would be no rollback in ambition as a result of the UK leaving. Participation in existing mechanisms such as the IEM and ETS would help manage competitiveness concerns and provide the strongest continuity for business and investors. The joint ministerial council would enable ongoing diplomatic cooperation on climate issues and could potentially be expanded to cover other countries such as Norway.

Risks/issues:

There would be significant tension between the UK desire to still have a voice in governance and rule setting and the EU red lines on the avoidance of cherry picking and the status of third countries. This is potentially manageable in areas such as the energy transmission system operators (ENTSO-E and ENTSO-G), but could become complex over issues such as setting future caps/rules of the ETS etc. The extent to which a ‘common rulebook’ would cover the full energy and climate acquis communautaire would be similarly contentious.

¹² HM Government (July 2018) *The Future Relationship Between the United Kingdom and the European Union*



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Option 2: Medium/low cooperation

Key features:

- EU and UK submit new NDCs to the Paris Agreement by Q1 2020 stating their intention to cooperate in some aspects;
- UK does not continue to participate in existing climate delivery mechanisms. The UK establishes a separate emissions trading system (or emissions tax), which could potentially be linked back to the EU, and separate reporting on LULUCF emissions etc.
- The UK does not fully participate in the Internal Energy Market and separate arrangements are put in place, operating on a more limited common rulebook. This could potentially be similar to the current Swiss arrangements. The EU reserves the right to unilaterally switch off interconnectors;
- A separate energy agreement is negotiated to maintain the All Ireland Single Electricity Market (SEM)

Advantages:

This option is consistent with current red lines on independence/cherry picking. Both sides may perceive advantages in creating independent systems e.g. opportunity for the UK to create a 'bespoke' emissions trading system.

Risks/Issues:

Low levels of cooperation risk undermining climate ambition on both sides. There is likely to be a high degree of uncertainty from China and other major emitters about potential rollback. The creation of independent systems could create significant competitiveness concerns e.g. on carbon pricing. This could escalate and lead to one side or the other trying to impose border tax adjustments. Uncertainty over interconnection could deter future investment, making decarbonization more expensive.

Option 3: Crash 'no deal' Brexit

Key features:

- Article 50 process collapses and fails to agree the withdrawal and transition agreement;
- Strong political repercussions with both the UK and EU blaming the other side for failure;
- Cliff edge for existing mechanisms such as the EU ETS and IEM creating considerable uncertainty;
- Both sides rush to implement emergency measures to stabilize conditions;
- Risk of significant instability on the Irish border

Advantages:

None.

Risks/Issues:

Massive risks for climate ambition and huge uncertainty over the future of the current EU NDC. The dislocation in mechanisms such as the IEM and ETS would have a strongly negative impact on business and potentially lead to an investment hiatus in the UK. Companies could initiate legal action over the status of ETS permits etc. The rush to implement emergency measures could lead to short-term decisions which would have long-term ramifications for environmental integrity and competitiveness. The risk of the UK initiating a race to the bottom on environmental standards would be high in this scenario.

Conclusions and Recommendations

The decisions by the EU and UK both during the Brexit transition phase and on the future relationship will have a significant impact on climate ambition and the Paris Agreement itself. However, as shown above there are a number of risks that could result in low levels of cooperation and send confused messages to other international partners. As such the EU and UK should work to rapidly take forward the following recommendations.

Transition phase recommendations:

- Urgently clarify the working arrangements during the transition and whether the UK will pursue an independent climate diplomacy strategy or continue to coordinate with the EU-27;
- The EU and UK should hold a joint press conference at COP 24 in Katowice and immediately after the end of the Article 50 period to clarify that there will be no rollback on climate ambition in the current NDC, and communicate transition arrangements to other Parties;
- The EU and UK should continue to coordinate action during the transition period with a view to both switching to a 'net-zero' long-term goal and communicating increased ambition at the UNSG Special Summit in September 2019;
- The UK should clarify how it will report on meeting its existing international obligations during the transition period, including under the Kyoto Protocol;
- In its clarification of joint actions with Norway and Iceland the EU should consider any relevant applications for the UK during the transition; and
- The EU and UK should discuss contingency plans for climate change in the event that the transition period is extended beyond December 2020.

Future relationship negotiation recommendations:

- The EU and UK should agree to strategically link climate and energy negotiations as part of the future relationship statement. This will be vital to manage the linkages in key areas such as emissions trading;



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- The EU and UK should agree a broad scope for climate cooperation. This should include mechanisms to coordinate climate diplomacy alongside both emissions trading, effort sharing regulation and land-use, land-use change and forestry;
 - The future relationship statement that will be agreed as part of the Article 50 process should include a climate and energy [chapter/section] and make clear references to continued delivery with regard to the Paris Agreement;
 - During the transition period the EU and UK should try and achieve the highest possible levels of cooperation on climate change and energy as this will maximise benefits for citizens on both sides;
 - A decision by the UK to set out an independent nationally determined contribution (NDC) is still compatible with high levels of climate cooperation. Lessons from the current Norway and Iceland NDCs provide examples of joint action with the EU to fulfil climate goals.
 - However, the UK and EU should also put in place contingency plans to try and minimise the impact of a no deal scenario.



About E3G

E3G is an independent climate change think tank operating to accelerate the global transition to a low carbon economy. E3G builds cross-sectoral coalitions to achieve carefully defined outcomes, chosen for their capacity to leverage change. E3G works closely with like-minded partners in government, politics, business, civil society, science, the media, public interest foundations and elsewhere. In 2017, E3G was ranked the 5th most influential environmental think tank globally.

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