



House of Commons  
European Scrutiny Committee

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**Seventh Report of  
Session 2022–23**

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Documents considered by the Committee on 7 September 2022

*Report, together with formal minutes*

*Ordered by The House of Commons  
to be printed 7 September 2022*

## Notes

### Numbering of documents

Three separate numbering systems are used in this Report for European Union documents:

Numbers in brackets are the Committee's own reference numbers.

Numbers in the form "5467/05" are Council of Ministers reference numbers. This system is also used by UK Government Departments, by the House of Commons Vote Office and for proceedings in the House.

Numbers preceded by the letters COM or SEC or JOIN are Commission reference numbers.

Where only a Committee number is given, this usually indicates that no official text is available and the Government has submitted an "unnumbered Explanatory Memorandum" discussing what is likely to be included in the document or covering an unofficial text.

### Abbreviations used in the headnotes and footnotes

AFSJ	Area of Freedom Security and Justice
CFSP	Common Foreign and Security Policy
CSDP	Common Security and Defence Policy
ECA	European Court of Auditors
ECB	European Central Bank
EEAS	European External Action Service
EM	Explanatory Memorandum (submitted by the Government to the Committee)*
EP	European Parliament
EU	European Union
JHA	Justice and Home Affairs
OJ	Official Journal of the European Communities
QMV	Qualified majority voting
SEM	Supplementary Explanatory Memorandum
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

### Euros

Where figures in euros have been converted to pounds sterling, this is normally at the market rate for the last working day of the previous month.

### Further information

Documents recommended by the Committee for debate, together with the times of forthcoming debates (where known), are listed in the European Union Documents list, which is published in the House of Commons Vote Bundle each Monday and is also available on the [parliamentary website](#). Documents awaiting consideration by the Committee are listed in "Remaining Business": [www.parliament.uk/escom](http://www.parliament.uk/escom). The website also contains the Committee's Reports.

\*Explanatory Memoranda (EMs) can be downloaded from GOV.UK: <https://www.gov.uk/government/collections/explanatory-memoranda-on-eu-documents>. EMs can be searched by Council or Commission reference number. Letters from the Committee and those issued by Ministers can be found in the correspondence section of the Committee's website: <https://committees.parliament.uk/committee/69/european-scrutiny-committee/publications/3/correspondence/>.

Explanatory Memoranda and letters published before 31 March 2022 can be found on the National Archives website—<https://webarchive.nationalarchives.gov.uk/search/>—by restricting searches to <https://europeanmemoranda.cabinetoffice.gov.uk/>

### Staff

The current staff of the Committee are Ravi Abhayaratne (Committee Operations Assistant), Hannah Barlow (Committee Specialist), Joanne Dee (Deputy Counsel for European and International Law), Alistair Dillon and Leigh Gibson (Senior Committee Specialists, European Affairs Unit), Nat Ireton (Committee Operations Officer), Daniel Moeller (Committee Operations Manager), Foeke Noppert (Senior Committee Specialist, European Affairs Unit), Indira Rao MBE (Counsel for European and International Law), Emily Unwin (Deputy Counsel for European and International Law), Dr George Wilson (Clerk).

### Contacts

All correspondence should be addressed to the Clerk of the European Scrutiny Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is (020) 7219 3292/8185. The Committee's email address is [escom@parliament.uk](mailto:escom@parliament.uk).



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# 1 Northern Ireland Protocol: Ecodesign for sustainable products<sup>1</sup>

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## This EU document is politically important because:

- it will affect the UK under all scenarios, likely applying in some form under the Northern Ireland Protocol and introducing new sustainability requirements with which GB exports to the EU will need to comply;
- domestic policy in this area is planned, but may cause supply chain friction if the EU and UK act in isolation; and
- the Government failed to identify it as relevant under the Protocol, only depositing it for parliamentary scrutiny once informed by the EU that it was applicable under the Protocol.

## Action

- Write to the Minister.
- Draw to the attention of the Business, Energy and Industrial Strategy Committee, the Environmental Audit Committee and the Northern Ireland Affairs Committee.

## Overview

1.1 In both the UK and the EU, many everyday products have short lifetimes, with limited reuse, repair and recycling.<sup>2</sup> The European Commission has therefore proposed a [new Regulation](#) to reduce the negative environmental impacts of almost all physical products produced or sold in the EU and to protect the EU internal market from divergent national rules. Priority categories are likely to be textiles, furniture, mattresses, tyres, detergents, paints and lubricants.

1.2 The new Regulation, known as the Ecodesign for Sustainable Products Regulation (ESPR), is directly relevant to the UK. It would repeal the existing Ecodesign Directive,<sup>3</sup> which is listed as legislation with which Northern Ireland must remain aligned under the terms of the Northern Ireland Protocol. If the ESPR is read as replacing the Directive,<sup>4</sup> it will automatically apply in Northern Ireland, with potential effects across the UK internal market. Regardless of application under the Protocol, the draft legislation has relevance for

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1 Proposal for a Regulation establishing a framework for setting eco-design requirements for sustainable products and repealing Directive 2009/125/EC; Council and COM number: 7854(22), [COM \(2022\)142](#); Legal base: Art 114 TFEU, QMV, Ordinary legislative procedure; Department: Business, Energy and Industrial Strategy; Devolved Administrations: Consulted; ESC number: 42103.

2 Parliamentary Office of Science and Technology, '[Regulating Product Sustainability](#)' (June 2021)

3 [Directive 2009/125/EC](#) of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of eco-design requirements for energy-related products.

4 Article 13(3) of the Protocol provides "Notwithstanding Article 6(1) of the Withdrawal Agreement, and unless otherwise provided, where this Protocol makes reference to a Union act, that reference shall be read as referring to that Union act as amended or replaced".

the UK given its likely impact on supply chains in which UK businesses are also involved. Products placed on the EU market by UK businesses will have to comply with the ESPR, including a digital product passport.

1.3 Concerning application of the ESPR under the Protocol, the Minister for Business, Energy and Corporate Responsibility (Lord Callanan) [says](#) that there are a number of important differences between the existing Ecodesign Directive and the ESPR. As such, the Government is considering whether the ESPR should be treated as a new measure, meaning that its applicability to Northern Ireland would not be automatic but would have to be agreed by the EU and the UK.<sup>5</sup> Initial analysis shows that the ESPR is broader in scope (applying to almost all products rather than just energy-related products) and it introduces new obligations (such as digital product passports). The Government is conducting further analysis and will keep us updated.

1.4 We have asked the Government for the promised update and for the Government's analysis concerning the wider impact on the UK, aside from considerations around the Northern Ireland Protocol.

## The Commission's proposal

1.5 At the heart of the ESPR is a commitment to mandatory product-specific ecodesign requirements, supported by a digital product passport for each product. It is one component of the wider [Sustainable Products Initiative](#),<sup>6</sup> also including a [Textiles Strategy](#)<sup>7</sup> and a [proposed overhaul](#) of the Construction Products Regulation,<sup>8</sup> concerning which we [reported](#) on 28 June 2022.<sup>9</sup>

1.6 The Commission will focus on products with the highest potential and impacts in terms of environmental sustainability. It has identified that product categories such as textiles, furniture, mattresses, tyres, detergents, paints, lubricants, as well as iron, steel and aluminium have high environmental impact and potential for improvement, and are thus suitable priority candidates. The only products excluded are food, feed, medicines, animals, plants and products of human origin as these are all separately regulated.

1.7 The ecodesign requirements should, as appropriate to the relevant product groups, improve the following product aspects:

- durability;
- reliability;
- reusability;

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5 Subject to agreement in the Joint Committee, comprising representatives of the EU and the UK, new EU laws within the scope of the Protocol may be added to the list of legislation with which Northern Ireland must comply. If the EU identifies an EU law that it thinks should be added to Annex 2, but the Joint Committee fails to agree, the Parties should "examine all further possibilities to maintain the good functioning of the Protocol and take any decision necessary to this effect." If the situation remains unresolved, the EU may take remedial measures once the EU law in question is implemented in the EU.

6 Commission Communication, 'On making sustainable products the norm' [COM\(22\) 140](#) (30 March 2022)

7 Commission Communication, 'EU Strategy for Sustainable and Circular Textiles' [COM\(22\) 141](#)

8 Proposal for a Regulation of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products, amending Regulation (EU) 2019/1020 and repealing Regulation (EU) 305/2011, [COM\(2022\) 144](#).

9 Fourth Report, HC 119–iv (2022–23), chapter 1 (22 June 2022).



- upgradability;
- repairability;
- possibility of maintenance and refurbishment;
- presence of substances of concern;
- energy use or energy efficiency;
- resource use or resource efficiency;
- recycled content;
- possibility of remanufacturing and recycling;
- possibility of recovery of materials;
- environmental impacts, including carbon and environmental footprint; and
- the expected generation of waste materials.

1.8 The ecodesign requirements should include both performance and information requirements (such as information for consumers on repair, recycling and disposal), including a digital product passport. The digital product passport must accompany any product placed on the market, providing information about products' environmental sustainability. Products with digital passports will be tagged, identified, and linked to data relevant to their circularity and sustainability. This, says the European Commission,<sup>10</sup> should help consumers and businesses make informed choices when purchasing products, facilitate repairs and recycling and improve transparency about products' life cycle impacts on the environment. The product passport should also help public authorities to better perform checks and controls.

1.9 The proposal also includes provisions concerning public procurement, market surveillance and mandatory public disclosure of information about the destruction of unsold items.

1.10 Many of the details required to implement the ESPR, such as ecodesign requirements and the development of the digital product passport, will follow in more technical delegated legislation.

## UK Government position

1.11 In his [Explanatory Memorandum](#), the Minister notes that the existing Ecodesign Directive establishes a framework under which manufacturers of energy-related products are obliged to reduce the energy consumption and other negative environmental impacts occurring throughout the product life cycle. The ESPR, he observes, would extend the scope of products which can be regulated from energy-related products to almost all physical products on the internal market and includes new requirements which aim to contribute to the EU's overall climate, environmental and energy goals, while supporting economic growth, job creation and social inclusion.

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10 European Commission, '[Ecodesign for sustainable products](#)' [accessed 9 August 2022]

1.12 Concerning application of the ESPR under the Northern Ireland Protocol, the Minister confirms that the existing Ecodesign Directive is listed in Annex 2 of the Northern Ireland Protocol and has therefore applied (and continues to apply until it is repealed) in Northern Ireland since the end of the transition period on 1 January 2021.

1.13 He says that the Government’s initial analysis of the ESPR has identified a number of important differences to the existing Ecodesign Directive. The Government is therefore considering whether the proposed Regulation falls under Article 13(3) of the Northern Ireland Protocol, and therefore would automatically apply in Northern Ireland, or whether it falls under Article 13(4) as a new measure, and should be subject to the Joint Committee process set out under that Article. Initial analysis, he says, shows it is broader in scope (applying to almost all products rather than just energy-related products) and it introduces new obligations (such as digital passports). Further analysis is required before concluding whether the differences between the Ecodesign Directive and the proposed EU Regulation are sufficiently significant for the Regulation to be treated as a new measure. The Minister promises to keep us updated as this consideration develops.

1.14 The Minister emphasises that the Government intends to address the issues being faced by businesses when engaging with the Northern Ireland market through its Northern Ireland Protocol Bill. This, he explains, will restore the balance inherent in the objectives of the Northern Ireland Protocol: protecting the integrity of the UK; avoiding a hard border; and safeguarding the EU Single Market. The Government remains open to continuing discussions with the EU and, while these continue, will take steps to stabilise the situation in Northern Ireland.

1.15 The Minister also acknowledges that the impact of the ESPR will be reflected beyond the EU, given today’s supply chains are inherently global. To enforce this, minimum requirements will apply to all products entering the EU market, which means GB manufacturers wishing to trade in the EU, including via online sales, will need to ensure their products comply with the regulations.

1.16 The Minister adds that the draft legislation is unlikely to be adopted until 2024. In the meantime, the Commission will continue its work under the existing Ecodesign Directive. The EU’s new [Ecodesign and Energy Labelling Working Plan for 2022–2024](#)<sup>11</sup> will include new energy-related products, and update and increase the ambition of those already regulated.

## Our assessment

1.17 We consider the draft Regulation to be relevant to the UK under all scenarios. Ultimately, the impact of the ESPR on the UK will depend on how domestic policy evolves and the degree of divergence within the UK and compared to the EU. The Government’s Waste and Resources Strategy,<sup>12</sup> published in December 2018, included a commitment for England to “match or, where economically practicable, exceed the ambition of the EU’s Ecodesign standards [...] by legislating to expand the scope to cover more resource intensive product groups, such as textiles and furniture.” Subsequently, the Environment Act 2021 provided that regulations may be made in England setting down

11 European Commission, ‘The ecodesign and energy labelling working plan 2022–2024’ (6 April 2022) [Accessed 16 August 2022].

12 HM Government, [‘OUR WASTE, OUR RESOURCES: A STRATEGY FOR ENGLAND’](#) (18 December 2018)

resource efficiency requirements for products, including information requirements. The Government has said<sup>13</sup> that further information will be set down in the second Waste Prevention Programme later this year. We will seek clarity from the Government on the latest available plans, including timings and what work is underway to coordinate across the UK around ecodesign standards.

1.18 Notwithstanding the uncertainties around domestic policy development, we see the ESPR as relevant to the UK for a number of reasons.

1.19 Most clearly, there is a relationship with the Northern Ireland Protocol given that the ESPR repeals legislation (the Ecodesign Directive) applicable in Northern Ireland. While the Government has been seeking to alter the operation of the Protocol to reduce the direct application of EU law in Northern Ireland,<sup>14</sup> having in June 2022 published a Bill to amend the operation of the Protocol in UK domestic law, the outcome of that process is not clear at this stage.<sup>15</sup> We are therefore interested in assessing the impact of the Regulation under the terms of the Protocol as it currently exists.

1.20 The Minister has said that the Government is assessing whether the ESPR replaces the Ecodesign Directive or should be treated as a ‘new’ measure. We will clarify with him whether the EU has indicated whether it considers the draft legislation to be replacement legislation applicable under Article 13(3) or to be a new measure applicable under Article 13(4) of the Protocol.

1.21 Application of the Regulation under the Protocol, including the digital product passport, public disclosure around disposal of unsold goods, green public procurement and market surveillance could all create challenges within the United Kingdom. We will therefore seek an update on the Government’s considerations, requesting analysis on the potential challenges arising from application under the Protocol.

1.22 Second, the draft Regulation is clear that third country products placed on the EU market will have to be compliant with its provisions, including UK products. We note the Minister’s recognition of this reality.

1.23 Third, EU and UK products produced for both the EU and UK markets would be compliant with the ESPR, potentially providing additional information to consumers than currently available in the UK. We will clarify if it is yet clear whether the digital product passport, for example, would be accessible outside of the EU.

1.24 Fourth, and as the Minister notes, supply chains are global. It is likely that EU ecodesign requirements affecting, for example, textiles produced in third countries but placed on the EU market would have a knock-on effect on similar textiles manufactured in third countries but placed on the UK market. Greater availability in the UK of sustainably designed products would be to be welcomed as long as the appropriate downstream recycling or reuse facilities and arrangements are in place. We will ask for the Minister’s analysis of the potential spill over effect in the UK of the ESPR.

1.25 On a handling note, the Government initially failed to deposit the document for parliamentary scrutiny as the EU had not informed the UK that it was draft legislation

13 Department for Environment, Food and Rural Affairs, ‘[Consultation on environmental targets](#)’ (6 May 2022)

14 HM Government, ‘Northern Ireland Protocol: the way forward’ (CP 502, July 2021).

15 Northern Ireland Protocol Bill. 2022. (HC Bill, 2022–23). London: The Stationery Office. Bill and Explanatory Notes available from: <https://bills.parliament.uk/bills/3182>.

applicable under the terms of the Protocol. Only once the EU had done so, did the UK deposit this proposal. Internally, we had identified the draft legislation as applicable under the Protocol and queried it with Government officials but the Government showed little interest. We will seek clarification from the Government on whether it actively monitors draft EU legislation potentially applicable under the Protocol, undertaking analysis where required or whether it simply awaits notification from the EU before taking any action. It is alarming that the Government appears to have been caught out by the EU on draft legislation with potentially significant implications for the UK and also appears reluctant to respond to our analysis.

## Action

1.26 We have written to the Minister as set out below.

1.27 We are drawing this document to the attention of the Business, Energy and Industrial Strategy Committee, the Environmental Audit Committee and the Northern Ireland Affairs Committee.

### ***Letter from the Chair to the Minister for Business, Energy and Corporate Responsibility (Lord Callanan)***

We considered your Explanatory Memorandum on the above document at our meeting of 7 September 2022.

We consider the proposal to be relevant to the UK under all scenarios, although we recognise that the extent of the impact is largely dependent on the evolution of domestic policy in this area. Furthermore, we appreciate that the Government is actively seeking to alter how the Northern Ireland Protocol operates, having published a Bill to that effect in June. The outcome of that process is, however, unclear and so we are keen to understand the implications of the proposed Regulation under the terms of the Protocol as it currently exists.

The Environment Act 2021 gives Ministers the power to make regulations in England establishing similar provisions to those proposed by the Commission in the draft Ecodesign for Sustainable Products Regulation (ESPR). Could you update us on the progress of developing such regulations domestically and tell us what degree of coordination is taking place across the UK in this area?

Notwithstanding the uncertainties around domestic policy development, we would be grateful if you could write to us with more information on the potential implications of the EU's Ecodesign Regulation for the UK, in particular with respect to the issues set out below.

You have said that the Government is assessing whether the ESPR replaces the Ecodesign Directive or should be treated as a 'new' measure. It would be helpful if you could clarify the EU's interpretation. When the EU highlighted this as a measure applicable under the Protocol, did it indicate whether it considers the draft legislation to be replacement legislation applicable under Article 13(3) or to be a new measure applicable under Article 13(4) of the Protocol?

We consider that application of the draft Regulation under the Protocol, including the digital product passport, public disclosure around disposal of unsold goods, green public procurement and market surveillance could all create challenges within the United Kingdom, as could divergent legislation between GB and NI on sustainable consumption and production. We look forward to an update on your assessment, including analysis of the potential challenges arising from application under the terms of the Protocol as it currently exists.

As you note, supply chains are global and so the EU's plans are directly relevant to the UK regardless of domestic policy development. That is not only because UK products on the EU market will have to be compliant but because there may be some spill over effect where products manufactured for the EU market are also placed on the UK market or at least originate from the same supply chains. What is your analysis of the potential spill over effects in the UK of the ESPR?

A particular innovation in the proposal is the idea that every product should be accompanied by a digital passport. Subject to the design, we can see how this might be helpful for consumers and we are mindful that this would apply to products produced for the EU market but also sold on the UK market. Do you know if the digital product passport would be accessible outside the EU?

Noting the relevance of the ESPR for the UK, could you tell us what engagement you envisage with the EU institutions as both the EU and the UK develop their plans in this area?

Finally, we want to clarify the scrutiny process leading up to deposit of this document directly relevant to UK interests. The Government has committed to depositing draft EU Acts applicable under the Northern Ireland Protocol but it failed to deposit this draft Act—published on 30 March 2022—despite a query from our officials about deposit. It was only once the EU signalled that the draft legislation would be applicable under the Protocol that the Government proceeded to deposit the document. We ask you to explain the chronology of events, including why the Government had to wait to be informed by the EU that the instrument was applicable.

We look forward to a response by 12 October 2022.

## 2 Deforestation and forest degradation<sup>16</sup>

**This EU document is legally and politically important because:**

- while it is likely to apply, at least in part, to Northern Ireland there is considerable uncertainty about how much of it should apply;
- separately, the UK is consulting on its own similar, but not identical, system; and
- any divergence between the EU and UK approaches could prove challenging both within the UK but also internationally given global efforts in this area.

### Action

- Write to the Minister.
- Draw to the attention of the Business, Energy and Industrial Strategy Committee, the Environmental Audit Committee, the Environment, Food and Rural Affairs Committee, and the Northern Ireland Affairs Committee.

### Overview

2.1 The European Commission recently [proposed](#) an EU law (‘the draft Regulation’) to curb EU-driven deforestation and forest degradation. By applying due diligence obligations on businesses, the draft Regulation would guarantee that soy, beef, palm oil, wood, cocoa and coffee, and some of their derived products, placed on the EU market do not contribute to global deforestation and forest degradation. It also includes new ‘deforestation-free’ criteria, in addition to requirements for compliance with relevant local laws.

2.2 The draft Regulation is relevant to the UK for two linked reasons. First, the UK is developing its own similar policy, under the Environment Act 2021, with the same objective but a distinct design. Second, the legislation (once adopted) may be applicable in full—or in part—to Northern Ireland under the terms of the Northern Ireland Protocol. The draft Regulation would repeal an existing law, the EU Timber Regulation ([EUTR—Regulation \(EU\) No 995/2010](#)),<sup>17</sup> which has a more limited scope and objective and which must be applied in Northern Ireland under the terms of the Northern Ireland Protocol. It is unclear whether the draft Regulation would replace the EUTR and therefore there is uncertainty as to whether the draft Regulation would apply under the Protocol.

<sup>16</sup> Proposal for a Regulation on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010; [14151/21](#), COM(2021) 706; Legal base: Article 191(2) TFEU, QMV, Ordinary Legislative Procedure; Department: Environment, Food and Rural Affairs; Devolved Administrations: Consulted; ESC number: 42035.

<sup>17</sup> The EUTR prohibits the placing of illegally-harvested timber products on the EU and Northern Ireland markets, requiring those first placing such products on the market to exercise due diligence, thereby enabling timber and timber products to be traced.

2.3 We set out more details about the EU’s proposal, the UK’s response and UK domestic policy developments in our document scrutiny [Report](#) of 11 May 2022,<sup>18</sup> when we also [wrote](#) to the Minister of State (Rt Hon. Lord Goldsmith of Richmond Park) seeking further information.

2.4 The Minister has since [responded](#), as set out below. In summary, he confirms that the Government is engaging with the EU on the proposal and that it remains unclear whether the Regulation will apply automatically in Northern Ireland or not. He recognises too that the draft Regulation covers areas of policy that are regulated under the Environment Act 2021. Finally, the Minister confirms that the Government is working internationally on tackling deforestation in supply chains, including with the EU.

2.5 We have written back to the Minister, expressing concern that the Minister’s letter does not reflect how much impact the EU’s proposal could have on UK policy and urging the Government to take this issue more seriously. The reality is that this is not an area where the UK can act without regard to developments elsewhere, but there is a risk that the UK’s policy autonomy in this area is further undermined by the Government’s resistance to engaging with the EU at an early stage. We have requested a further update as the Government’s analysis evolves.

### Minister’s letter of 27 July 2022

2.6 In his [response](#), the Minister confirms the Government’s understanding that the EU sees this proposed legislation as a planned act within the scope of the Northern Ireland Protocol. He says, however, that the Government’s analysis of the proposal is ongoing, both to consider whether the proposal is within the scope of the Protocol and, if it is, whether it is an amendment or replacement of the existing EU Timber Regulations or whether the draft Regulation is a ‘new’ act which neither amends nor replaces the EU Timber Regulations.

2.7 The Minister recalls the analysis set out in his original [Explanatory Memorandum](#), suggesting that elements of the proposal are novel and that, therefore, there is a case for it to be considered ‘new’ as provided for under the process in Article 13 (4) of the Protocol. The draft Regulation, he says, includes a broader range of agricultural commodities in addition to timber and timber products; and introduces major changes to the range of businesses that are in scope of the new act, in addition to creating significant new obligations for those businesses.

2.8 These are points, says the Minister, that have been raised directly with the EU. The Government recognises, however, that the proposal is currently progressing through the European Parliament and Council and, as such, the existing draft of the proposal may be amended before it is brought into force. In line with the Government’s existing scrutiny commitments, the Government will inform us if the EU requests to add the legislation (once adopted) to the Protocol using the Article 13 (4) process. In the meantime, the UK has indicated its concerns with the current proposals both in terms of the legal basis and the potential impact on Northern Ireland. The Government will, therefore, continue with its analysis and engagement in relation to this issue.

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18 First Report, HC 119-i (2022–23), [chapter 4](#) (11 May 2022).

2.9 The Minister acknowledges that the proposed EU Regulation covers areas of public policy that are regulated under the Environment Act 2021, notably due diligence provisions to tackle illegal deforestation in UK supply chains. The Minister notes that the Northern Ireland Assembly gave its consent to certain powers in the Act being exercised by the Secretary of State on their behalf, allowing due diligence provisions to be implemented on a UK-wide basis. The Government, says the Minister, has committed to implementing these provisions at the earliest opportunity through secondary legislation.

2.10 Concerning the Government’s international work in this area, the Minister says that the UK welcomes the chance to work closely with other governments across the globe, including the EU, to ensure a coordinated international approach to reversing deforestation in the next decade. He acknowledges that the UK cannot shift to sustainable supply chains alone. Instead, it must be a collective effort between consumers and producers globally. This issue is central to the UK’s commitment to tackling the twin challenges of climate change and biodiversity loss. At COP26,<sup>19</sup> says the Minister, the UK led the way in securing an agreement from over 140 world leaders to work together to halt and reverse forest loss and land degradation by 2030 under the [Glasgow Leaders’ Declaration on Forests and Land Use](#) (GLD). If implemented, says the Minister, the GLD would deliver 10% of the carbon emissions reductions needed by 2030 to keep the 1.5 degree goals of the Paris Agreement alive.<sup>20</sup>

2.11 Since COP26, says the Minister, the UK has continued to take a leading role in working with global partners to deliver on the GLD. Together with several GLD endorsers, the UK is exploring how to implement the GLD and its associated action areas. Over 25 countries were invited to a closed-door Ministerial meeting which took place at [Stockholm+50](#) with the objective of delivering ambition on joint commitments at COP27 later this year (the next international climate conference) as well as a long-term plan to deliver the required progress on all action areas by 2030.

## Our assessment

2.12 We accept that the Government’s analysis is ongoing and that the draft Regulation is likely to be amended during its consideration by the European Parliament and the Council. Despite those uncertainties, we nevertheless consider that the Minister could have provided greater detail on Government policy, notably in terms of multilateral cooperation.

2.13 In our [Report](#) of 11 May 2022,<sup>21</sup> we set out in detail our analysis of the proposal’s relevance to the UK. Fundamental, we concluded, was the question of how distinct the UK and EU approaches turn out to be. We highlighted a helpful [analysis](#) comparing the emerging EU, UK and US approaches.<sup>22</sup> We noted that there are strong similarities between the UK’s direction of travel and that of the EU but that there are important distinctions

19 The 26th Conference of the Parties to the UN Framework Convention on Climate Change, held in Glasgow in November 2021.

20 UN Framework Convention on Climate Change, [‘The Paris Agreement’](#) [accessed 18 August 2022].

21 First Report, HC 119-I (2022–23), [chapter 4](#) (11 May 2022)

22 Steptoe & Johnson LLP, Global Trade Policy Blog, [‘Comparing Recent Deforestation Measures of the United States, European Union, and United Kingdom’](#) (31 January 2022)



which—if left unresolved—may well cause problems for the UK internal market and may undermine international efforts in this area. In particular, we struggled to see how partner countries could work with different definitions of illegality.

2.14 We concluded that, the more consensus there is on how to tackle deforestation and forest degradation, the more effective respective unilateral measures are likely to be. We therefore asked for detail from the Minister as to how the UK is engaging internationally, including how the UK is engaging with partners such as the EU and US which are developing similar, but slightly divergent, approaches. We asked for the Minister’s analysis of how effective unilateral measures in this area can be if not underpinned by a strong degree of consensus.

2.15 The Minister failed to engage with these questions to any degree of satisfactory detail. We will therefore re-iterate them. For us, they are crucial. If the UK works well with the EU at a multilateral level, the significance of whether the Regulation applies under the Protocol will be less as differences between the respective approaches should be minimised. This is also a matter of how the UK deploys its post-Brexit regulatory autonomy. In an area such as this where cooperation is essential, the UK risks ending up as a rule-taker whereas it has an opportunity to be a rule-maker.

2.16 We remain interested in the discussions over application of this Regulation under the Protocol and will ask the Government to keep us updated, including on the question of the degree to which Northern Ireland’s application of the Regulation in full or in part would affect the UK’s preparation of regulations under the Environment Act.

## Action

2.17 We have written to the Minister as set out below.

2.18 We are drawing this letter to the attention of the Business, Energy and Industrial Strategy Committee, the Environmental Audit Committee, Environment, Food and Rural Affairs Committee, and the Northern Ireland Affairs Committee.

### ***Letter from the Chair to the Minister of State (Rt Hon. Lord Goldsmith of Richmond Park)***

We considered your letter of 27 July 2022 on the above document at our meeting of 7 September 2022.

We note, and understand, that the Government’s analysis is ongoing and that the draft Regulation is likely to be amended during its consideration by the European Parliament and the Council. Despite those uncertainties, we nevertheless consider that you could have provided greater detail on Government policy, notably in terms of multilateral cooperation.

We remain concerned that there are important distinctions between the emerging EU, UK and US approaches which—if left unresolved—may well cause problems for the UK internal market and may undermine international efforts in this area. You provided high-level information on your efforts to engage internationally, but the level of detail was insufficient to re-assure us that you take this matter seriously. We therefore repeat our requests for the following information, in particular:

- what risks the Government sees of divergent approaches being adopted to tackling deforestation through supply chain measures, including the apparent differing approaches to illegality; and
- whether the Government has had any discussions with the EU and others to reach consensus on the design of supply chain measures designed to tackle deforestation and forest degradation.

For us, the answers to these questions are fundamental. If the UK works well with the EU at a multilateral level, the significance of whether the Regulation applies under the Protocol will be minimised. This is also a matter of how the UK deploys its post-Brexit regulatory autonomy, as it wishes to do through powers granted under the Environment Act 2021. In an area such as this where cooperation is essential, the UK may well end up as a rule-taker whereas it has an opportunity to be a rule-maker.

We remain interested in the discussions over application of this Regulation under the Protocol and ask that you keep us updated, including on the question of the degree to which Northern Ireland's application of the Regulation in full or in part would affect the UK's preparation of regulations under the Environment Act 2021.

We would welcome a response to our letter by 19 October 2022.

### 3 Documents not raising questions of sufficient legal or political importance to warrant a substantive report to the House

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#### Department for Environment, Food and Rural Affairs

- (42100) Commission Regulation (EU) 2022/586 amending Annex XIV to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)  
—  
C(2022) 2142
- (42108) Commission Communication: Approval of the content of a draft Commission Regulation amending the Annexes to Regulation (EU) No 1408/2013 as regards their adaptation to reflect the provisions of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community and its Protocol on Ireland/Northern Ireland  
—  
C(2022) 4478

#### Department of Health and Social Care

- (42107) Commission Delegated Directive (EU) .../... of 29.6.2022 amending Directive 2014/40/EU of the European Parliament and of the Council as regards the withdrawal of certain exemptions in respect of heated tobacco products  
10815/22  
C O M ( 2 0 2 2 )  
4367

#### Home Office

- (42092) Commission Delegated Regulation amending Regulation (EC) 273/2004 and Regulation (EC) 111/2005 as regards the inclusion of certain drug precursors in the list of scheduled substances  
8155/22  
COM(22) 1840

## Annex

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***Documents drawn to the attention of select committees:***

(‘SNC’ indicates that scrutiny (of the document) is not completed; ‘SC’ indicates that scrutiny of the document is completed)

**Business, Energy and Industrial Strategy Committee:** Deforestation and Forest Degradation [Proposed Regulation][SNC]; Northern Ireland Protocol: Ecodesign for Sustainable Products [Proposed Regulation][SNC]

**Environmental Audit Committee:** Deforestation and Forest Degradation [Proposed Regulation][SNC]; Northern Ireland Protocol: Ecodesign for Sustainable Products [Proposed Regulation][SNC]

**Environment, Food and Rural Affairs Committee:** Northern Ireland Protocol: Ecodesign for Sustainable Products [Proposed Regulation][SNC]

**Northern Ireland Affairs Committee:** Deforestation and Forest Degradation [Proposed Regulation][SNC]; Northern Ireland Protocol: Ecodesign for Sustainable Products [Proposed Regulation][SNC]

# Formal Minutes

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**Wednesday 7 September 2022**

## **Members present:**

Sir William Cash, in the Chair

Jon Cruddas

Geraint Davies

Richard Drax

Mr Marcus Fysh

Mr David Jones

Craig Mackinlay

Gavin Robinson

Greg Smith

## **Document scrutiny**

Draft Report, proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1.1 to 3 agreed to.

*Resolved*, That the Report be the Seventh Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

## **Adjournment**

Adjourned till Wednesday 14 September 2022 at 1.45 pm

## Standing Order and membership

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The European Scrutiny Committee is appointed under Standing Order No.143 to examine European Union documents and—

- a) to report its opinion on the legal and political importance of each such document and, where it considers appropriate, to report also on the reasons for its opinion and on any matters of principle, policy or law which may be affected;
- b) to make recommendations for the further consideration of any such document pursuant to Standing Order No. 119 (European Committees); and
- c) to consider any issue arising upon any such document or group of documents, or related matters.

The expression “European Union document” covers—

- i) any proposal under the Community Treaties for legislation by the Council or the Council acting jointly with the European Parliament;
- ii) any document which is published for submission to the European Council, the Council or the European Central Bank;
- iii) any proposal for a common strategy, a joint action or a common position under Title V of the Treaty on European Union which is prepared for submission to the Council or to the European Council;
- iv) any proposal for a common position, framework decision, decision or a convention under Title VI of the Treaty on European Union which is prepared for submission to the Council;
- v) any document (not falling within (ii), (iii) or (iv) above) which is published by one Union institution for or with a view to submission to another Union institution and which does not relate exclusively to consideration of any proposal for legislation;
- vi) any other document relating to European Union matters deposited in the House by a Minister of the Crown.

The Committee’s powers are set out in Standing Order No. 143.

The scrutiny reserve resolution, passed by the House, provides that Ministers should not give agreement to EU proposals which have not been cleared by the European Scrutiny Committee, or on which, when they have been recommended by the Committee for debate, the House has not yet agreed a resolution. The scrutiny reserve resolution is printed with the House’s Standing Orders, which are available at [www.parliament.uk](http://www.parliament.uk).

**Current membership**

[Sir William Cash MP](#) (*Conservative, Stone*) (Chair)  
[Tahir Ali MP](#) (*Labour, Birmingham, Hall Green*)  
[Jon Cruddas MP](#) (*Labour, Dagenham and Rainham*)  
[Allan Dorans MP](#) (*Scottish National Party, Ayr Carrick and Cumnock*)  
[Richard Drax MP](#) (*Conservative, South Dorset*)  
[Margaret Ferrier MP](#) (*Independent, Rutherglen and Hamilton West*)  
[Mr Marcus Fysh MP](#) (*Conservative, Yeovil*)  
[Dame Margaret Hodge MP](#) (*Labour, Barking*)  
[Mrs Andrea Jenkyns MP](#) (*Conservative, Morley and Outwood*)  
[Mr David Jones MP](#) (*Conservative, Clwyd West*)  
[Stephen Kinnock MP](#) (*Labour, Aberavon*)  
[Mr David Lammy MP](#) (*Labour, Tottenham*)  
[Marco Longhi MP](#) (*Conservative, Dudley North*)  
[Craig Mackinley MP](#) (*Conservative, South Thanet*)  
[Ann Marie Morris MP](#) (*Independent, Newton Abbot*)  
[Greg Smith MP](#) (*Conservative, Buckingham*)