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Lord Teverson
EU Energy and Environment Sub-Committee
House of Lords
London
SW1A 0PW

16 April 2017

Dear Lord Teverson,

Following the House of Lord's EU Energy and Environment Sub-Committee's inquiry into Brexit: Environment and climate change and the subsequent publication of your Committee's report, please find attached the Government response.

Yours sincerely,

DR THERESE COFFEY MP

Government response to the House of Lords EU Energy and Environment Sub-Committee report into Brexit, Environment and Climate Change Policy

Introduction

The Government thanks the House of Lords EU Energy and Environment Sub-Committee for its report, 'Brexit: Environment and Climate Change', which makes an important contribution to the debate on the future of environmental and climate change policy following the withdrawal of the United Kingdom (the UK) from the European Union (the EU).

We are committed to being the first generation to leave the environment in a better state than that in which we found it. We will publish a 25 year environment plan during this Parliament. It will build on our long history of wildlife and environmental protection, and set out our approach to managing the environment.

Our action to tackle Climate Change is framed by the Climate Change Act 2008. This requires the UK to reduce greenhouse gas (GHG) emissions by at least 80% from 1990 levels by 2050. The UK has already made great progress towards our goal. Emissions in 2015 were 38% lower than 1990, and 4% below those in 2014. The Government is clear in its commitment to meeting our targets under the Act. While we cannot know at this stage what our future participation in EU climate measures may be, the Government will consider all options carefully as it works to secure the best deal for the UK, including on energy and climate policy.

The Great Repeal Bill will convert current EU law, including environmental and climate change law, into domestic law to ensure a smooth and orderly transition on leaving the EU. Leaving the EU gives us the opportunity to develop a comprehensive approach to protecting and managing our environment in the way that best fits our circumstances and delivers the Government's manifesto commitment on the environment.

EU environmental legislation and action (2)

In its report the Committee highlights the scale and complexity of the task of repatriating environmental and climate policy and its implications for domestic law and governance and warns that these should not be underestimated.

The Government recognises the scale and complexity of repatriating environmental and climate policy and its implications for domestic law and governance. That is why officials in all Government departments, including Defra and BEIS, are currently reviewing the EU laws that apply in their policy areas and, as part of this, are making an assessment of what will be necessary to ensure continued operability of existing law on the date of our departure. As with all departments, BEIS and Defra's work programmes and recruitment plans are kept under review to ensure we are appropriately staffed to deal with the task at hand. The resourcing of EU Exit work is a key priority of the Department and will be subject to on-going assessment. Staffing resources will be deployed flexibly across the entire Defra and BEIS agenda. Officials are also in regular discussions with the Treasury to ensure that both Departments have adequate resources to deal with Defra's work on EU Exit, alongside ensuring attention is given to UK and EU policy developments that occur

outside the EU exit process. Defra and BEIS officials are also working closely with DExEU officials on a number of EU Exit related issues. DExEU has also been considering environmental and climate change issues, amongst other matters, since the Department's formation, in recognition of the complexity in this area.

The environment and the Great Repeal Bill (3-9)

The Committee's report highlights the importance of ensuring policy stability during the process, and in the immediate aftermath, of the UK's withdrawal from the EU. The Committee highlights the role this stability will play in aiding investor confidence in the environmental sector and in civil society's ability to engage with environmental and climate change policies. The Committee also makes clear the need to avoid the emergence of legislative gaps and associated uncertainties in the sphere of environmental and climate protection and the importance of ensuring the UK's adherence to its international commitments post-EU exit.

The Government agrees with the Committee on the importance of providing policy stability both during and after the process of the UK's withdrawal from the EU. That is why our recently published White Paper on plans for EU Exit set out our plans for a Great Repeal Bill that will convert the 'acquis'; the body of existing EU law into domestic law. Without pre-judging the UK's future relationship with the EU or future decisions Parliament may make, this will give consumers, workers and businesses as much certainty as possible by maintaining existing laws wherever practicable. Government Departments, including Defra and BEIS, are currently reviewing the legislation that applies in their policy areas and assessing how our withdrawal from the EU will affect the operation of that legislation. The Government will ensure that existing EU and EU-related law, including environmental and climate related law, continues to be given effect in the law of the UK after EU Exit, either as it stands or in a modified form if that is required to ensure that it works as a UK standalone regime. The Government is pleased that the Committee recognises and welcomes this approach to providing environmental and climate change legislative stability in its report.

The 25 year plan for the environment we are developing provides the opportunity to plan our policies and regulatory framework for the future. In developing our policies and regulatory framework for the future we will have the opportunity to improve our approach to better align it with our new vision, make it even more outcome focused, effective, and tailored to the needs of this country.

The Government is committed to honouring our international commitments. The UK is already a party to a number of multilateral environmental agreements, including the Paris Agreement with its commitments on Climate Change; The Convention on International Trade in Endangered Species (CITES) which ensures that the international trade in specimens of wild plants and animals does not threaten their survival in the wild; The Montreal Protocol and its ban on most ozone depleting substances and requirement to deliver reductions in hydro fluorocarbons by 2036; The Convention on Biological Diversity which is dedicated to promoting sustainable development including through conservation of biodiversity, the sustainable use of its components and the equitable sharing of benefits arising from genetic resources; The Bern Convention on the conservation of European Wildlife Natural Habitats which protects habitats and endangered species; the OSPAR convention on the protection of the Environment of the North East Atlantic and the Basel,

Rotterdam and Stockholm conventions with their restrictions on movements of hazardous waste and commitments relating to chemicals.

On its exit from the EU the UK will continue to be a party in its own right to international environmental and climate agreements and so remain bound by the obligations they contain. Once we have left the EU, we will continue to liaise closely with EU Member States and international partners on issues that demand multilateral action, recognising the desire for coordinated efforts to tackle issues.

Specifically on climate change, the UK is fully committed to the global climate deal agreed in Paris. In demonstration of this, the UK ratified the Agreement in November 2016. The UK is already playing its part in delivering the Paris Agreement through our domestic climate framework under the Climate Change Act.

The Climate Change Act introduced our legally binding target for reducing greenhouse gas emissions by 2050. The Act also introduced carbon budgets to put us on a pathway to our 2050 target. Carbon budgets cap GHG emissions over successive 5 year periods and must be set 12 years in advance. The first five carbon budgets have been set and run up to 2032.

The Fifth Carbon Budget (covering 2028-32) was passed into law on 21 July 2016. Under this five-year cap on GHG emissions, the UK must reduce emissions by an equivalent 57% by 2030 on 1990 levels. The Confederation of British Industry, the Engineering Employers Federation and the Aldersgate Group all welcomed the certainty that this budget level gives in our move to a low carbon economy.

In accordance with the Climate Change Act, we are working on our plan setting out how we will reduce emissions through the 2020s. Our plan will form an important signal to the markets, businesses and investors.

Enforcement of environmental law (1,10-13)

The Committee highlights the role that EU institutions have played in ensuring the UK's compliance with EU legislation that affects environmental protection, including through taking infraction proceedings against EU Member States.

The referendum of June 2016 established that the people of the UK wanted to leave the EU. This means that power and authority must reside once again with the institutions of the UK, its Governments and Parliaments. After exit from the EU the UK will take back control of its laws. The Government will provide the maximum possible certainty for workers and businesses on leaving the EU, under Government plans to prepare for EU exit.

The 25 year plan for the environment we are developing provides the opportunity to plan our policies and regulatory framework for the future. In developing our policies and regulatory framework for the future we will have the opportunity to improve our approach to better align it with our new vision, make it even more outcome focused, effective, and tailored to the needs of this country.

The commitment to tackle climate change is already enshrined in UK law under the Climate Change Act. Through the Act, the UK was the first country to introduce legally

binding emission reduction targets and this legislation has been widely praised and emulated. The combination of a legally binding long-term target, carbon budgets, the requirement to report on our progress and independent evidence-based advice of the Committee on Climate Change ensures oversight of Government action.

The Committee raised concerns about available mechanisms for enforcement and oversight of environmental and climate change legislation. The Great Repeal Bill will end the supremacy of EU law and return power to the UK. The UK has always had a strong legal framework for environmental protections, and will continue to have a system of judicial review by UK judges after EU Exit. The judicial review mechanism enables any interested party to challenge the decisions of the Government of the day by taking action through the domestic courts.

Finally and most importantly, it is now and will remain the role of Parliament to hold the Government of the day to account through the usual means, and Parliament is ultimately accountable to the electorate.

Environmental implications of free trade with the EU (14-15)

In its report the Committee asks the Government to make clear what the free trade agreement with the EU will entail as this may have implications on future environmental policy. The Committee also asks that the Government set out its plans for conducting an evaluation of the Common Fisheries Policy and the Common Agricultural Policy (CAP) with a view to implementing new domestic policies which build upon the progress that has been made in environmental protection by these two EU schemes.

The UK will be leaving the EU Single Market, but intends to negotiate a bold and ambitious free trade agreement that allows the freest possible trade in goods and services with the EU. The UK will be seeking a new, strong and constructive partnership with the European Union - a partnership of friends and allies, of interests and values. The Government is approaching these negotiations with goodwill and is preparing for a smooth and orderly exit from the EU. It is clear that trade and environmental considerations, in particular product standards and other criteria for tradable products enshrined in environmental law, are closely related and interdependent and they will need to be considered closely in future discussions. The Government is committed to upholding the UK's international obligations. Furthermore we are committed to being the first generation to leave the natural environment of England in a better state than that in which we found it.

The Government has a long term ambition to make a resounding success of our world-leading food and farming industry; producing more, selling more, and exporting more of our Great British food. Leaving the EU is a major opportunity for UK agriculture and fisheries. We are assessing all of those opportunities for agriculture and fisheries outside of the EU and we will be able to design new policies which specifically benefit British agriculture, countryside and the environment, which will ensure that the UK's high standards of food health and animal welfare are maintained and which provide better value for money to the taxpayer. After 40 plus years of the CAP, we need to take time to explore better options; we should not be bound by what happened in the past but we recognise that farmers and landowners need early certainty about what to expect in the future.

Supporting our farmers and protecting the environment will form an important part of our exit from the EU. We look forward to working with industry, rural communities and the

wider public to shape our plans and future arrangements outside of the EU.

The drivers for alignment of standards and policy (16-21)

The Committee points out a strong shared interest in maintaining cross-border trade with the EU and argues that a degree of alignment between the UK and EU on environmental standards will be necessary. The Committee highlights the need to cooperate with the EU on matters of environmental pollution due to their transboundary nature and also notes the environmental challenges posed by the land boundary with Ireland. It also suggests there may be a need to assess whether the UK's approach to resource management will be feasible/fit for purpose depending on the terms of a free trade agreement between the EU and the UK. The Committee also notes that the UK's withdrawal from the EU may affect its ability to meet climate change targets and calls for a reassessment of the most cost effective means of meeting the targets. The Committee comments that the UK should seek to retain influence over the operating rules for the EU Emissions Trading System (the EU ETS) if the UK continues to participate in the programme. If the UK does not intend to continue to participate in EU ETS, it calls on the Government to evaluate alternative means of driving emissions reductions to fulfil national and international obligations.

The Government is seeking a strong and constructive partnership with the European Union. A constructive and optimistic approach to the negotiations is in the best interests of the EU and the UK. The Government will not prejudice its position; we will not reveal our hand prematurely or provide a running commentary on the negotiations.

The Government recognises that trade and environmental considerations may be closely related, in any event the Government remains committed to upholding the UK's international obligations and being the first generation to leave the natural environment of England in a better state than that in which we found it. Once we have left the EU, we will continue to liaise closely with EU Member States and international partners on issues that demand multilateral action, recognising the desire for coordinated efforts to tackle issues of common concern.

While we cannot know at this stage what our future participation in EU climate measures may be, the EU will remain an important partner. We are carefully considering the options and implications for the UK's future engagement in EU climate arrangements as part of delivering a wider settlement in the best interests of the UK.

The Government remains committed to tackling climate change and to low-carbon, secure and affordable energy and clean growth. In accordance with the ambitious emission reductions targets framed by the Climate Change Act and by international agreements, we are working on our plan to set out how we will reduce emissions through the 2020s. Our plan will send an important signal to the markets, businesses and investors. We are investing the time now to undertake critical preparatory work to ensure we get this right. This includes engaging across businesses, industry and other stakeholders on the shared challenge of moving to a low-carbon economy.

The UK has always been a strong supporter of market-based approaches to decarbonisation, including emissions trading. The Government is considering the UK's participation in the EU ETS, or otherwise, after EU exit as part of delivering a wider settlement that is in the best interests of the UK. We are considering all factors across a wide range of options, in consultation with stakeholders.

Irrespective of the future decision on UK participation in the EU ETS, a strong EU ETS will remain in the interest of both the UK and the EU, to preserve a level playing field and to ensure progress against the Paris commitments. In the ongoing negotiations on reform of the EU ETS for Phase IV (2021-2030), the UK has played a leading role in advancing measures to strengthen the system, while ensuring that industrial competitiveness is maintained.

The Government will work closely with the Northern Ireland Executive, recognising the particular circumstances that affect Northern Ireland - including around the border with the Republic of Ireland.

In relation to waste management, leaving the EU will allow the UK to adopt policy measures on resource management that work best for the UK. We can look to simplify some of the more complex processes without changing the level of environmental protection.

Influence (22-26)

The Committee urges the Government to continue to engage fully and constructively in negotiating and seeking to influence EU environmental and climate proposals for the full term of the UK's EU membership. It suggests that the UK will have less formal influence post-EU exit on EU environmental and climate standards, regulations and initiatives and notes the potential impact of this on trade. The Committee considers these to be the opportunity to continue to influence EU environmental and climate change policy by a range of informal means, including through UK trade associations and Non-Governmental Organisations (NGOs) maintaining close contact with, and membership of, EU pressure groups. The Committee expresses concern that, post-EU exit, the UK may have less influence in global negotiations, including on climate change, than it currently possesses as part of the EU. The Committee calls on the Government to seek to align the UK to other regional and thematic negotiating blocs with which it shares policy goals and to make use of all other tools, including its diplomatic relationships, so as to continue to influence global action on climate change.

Until exit negotiations are concluded, the UK remains a full member of the EU and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.

Post-EU exit we will continue to cooperate and work with the EU on certain policy areas where it will be important to do so, especially where those issues have effects across borders. We will continue to liaise closely with EU Member States and other international partners on issues that demand multilateral action, recognising the desire for coordinated efforts to tackle issues.

The Government recognises the opportunity that UK trade associations and NGOs have for engaging with the EU. Organisations like BSI will continue to fulfil their formal role as a National Standards Body.

The Committee has acknowledged the UK's position as a global leader on climate change and it is the UK's acknowledged skills and expertise in international negotiations that have been a major factor in developing our influence in international climate and environmental policies. Our pragmatism and ambition for long-term goals and practicable, rules-based systems will stand us in good stead in the post-EU exit world.

Our relationships with the US, China, India, Japan and other European countries will be pivotal as we deliver on the promises made in Paris and we will continue to work with them at the United Nations Frameworks Convention on Climate Change and through bilateral channels to deliver progress on this agenda.

The Government remains clear in its commitment to the Climate Change Act. This ground breaking legislation has been widely emulated and praised by other countries developing their own response to climate change.

UK emissions in 2015 were 38% lower than 1990. At the same time, the UK's GDP has increased by 64% since 1990. This shows the world that a strong, growing economy can go hand in hand with reduced emissions.

Resources (27-30)

The Committee notes the funding that the UK receives from the EU which contributes to research and infrastructure projects with an environmental outcome, as well as countryside management. The Committee asks for certainty on the post-EU exit arrangements for such funding. The Committee considers there may be loss of access to, and participation in, research projects and information networks coordinated by the EU. The Committee highlights the challenge of maintaining environmental and climate legislation through the Great Repeal Bill alongside developing domestic policies. The Committee notes the importance of ensuring appropriate attention is given to UK and EU policy developments that occur outside and alongside the EU exit process.

As set out in the Government's recent White Paper on plans for EU exit, a global Britain must also be a country that looks to the future. That means being one of the best places in the world for science and innovation. The Committee's report highlights that we would welcome an agreement to continue to collaborate with our European partners on major science, research and technology initiatives.

Stakeholders have also been reassured that they should continue to bid for competitive EU research funding such as Horizon 2020 while the UK remains a member of the EU. The Treasury will underwrite the payment of such awards, even when specific projects continue beyond the UK's exit from the EU, and the Government will work with the European Commission to ensure payment when funds are awarded. This should give UK participants and their EU partners the assurance and certainty needed to plan ahead for projects that can run over many years.

The Government recognises the importance of supporting farmers who are engaging in positive environmental land management activities, as part of its twin ambitions for a competitive, productive British agricultural industry and a better environment for future generations. We have provided early certainty by providing guarantees on payments under Pillars I and II of the CAP. Pillar I funding is guaranteed until the end of the Multiannual Financial Framework in 2020.

The Government has provided guarantees on European Structural and Investment Fund (ESIF) projects. All ESIF projects signed or with funding agreements in place before Autumn Statement will be fully funded, even when these projects continue beyond the

UK's departure from the EU. This includes agri-environment schemes under pillar II of the CAP. For projects signed after Autumn Statement and which continue after we have left the EU, funding for projects will be honoured by the Treasury if they provide strong value for money and are in line with domestic strategic priorities.

Defra and BEIS are some of the Government Departments most affected by EU Exit. As with all departments, Defra's and BEIS's work programmes and recruitment plans are continually kept under review to ensure they are appropriately staffed to deal with the task at hand. The resourcing of EU Exit work is a key priority and will be subject to on-going assessment by both Departments. Both Defra and BEIS will deploy staffing resources flexibly across their respective agendas. BEIS and Defra officials are also in regular discussions with the Treasury to ensure that their Departments have adequate resources to deal with EU Exit work, alongside ensuring attention is given to UK and EU policy developments that occur outside the EU exit process.

Devolution and the environment (31-32)

The Committee highlights the increased variation in environmental policy between the Devolved Administrations. The Committee suggests that the Government consult closely with the Devolved Administrations throughout the withdrawal negotiations and in the formulation of the Great Repeal Bill.

The UK Government is absolutely committed to working with the devolved administrations as we prepare for a new negotiation with the EU. We have set up a Joint Ministerial Committee on EU Negotiations (JMC EN), which brings together constituent parts of the United Kingdom to develop a UK-wide approach to our negotiations and to discuss issues stemming from the negotiation process which may impact upon or have consequences for the UK Government, the Scottish Government, the Welsh Government or the Northern Ireland Executive.

The UK Government will work very carefully to ensure that – as powers are repatriated back to Britain from the EU – the right powers are returned to Westminster and the right powers are passed to the devolved administrations. In doing this, we will make sure that no new barriers to living and doing business within our Union are created. That means maintaining the necessary common standards and frameworks for our own domestic market, empowering the UK as an open, trading nation to strike the best trade deals around the world, and protecting the common resources of our islands. Furthermore, no decisions currently taken by the devolved administrations will be removed from them.

On exiting the EU the UK will remain party to a number of multilateral environmental and climate change agreements that cover a wide range of environmental issues and will be bound by the commitments they contain.