



UNIVERSITY of STRATHCLYDE
CENTRE FOR
ENVIRONMENTAL LAW
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EU and International Law perspectives on the implications of Brexit for protecting Scotland's natural environment

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International (biodiversity) law has developed the normative concept of **ecosystem approach** (CBD COP Decisions V/6 (2000) and VII/11 (2004) → pursues integrated management of land, water and living resources and promotes their conservation and sustainable use in an equitable way. It relies on:

- the adaptive management of ecosystems on the basis of the **precautionary principle**, and
- the **mutual supportiveness** of environmental standards with other areas of law, especially human rights of affected peoples and communities.

Under EU law, the main constitutional levers for supporting an integrated (ecosystem-based) approach are the:

- Principle of integration (art. 11 TFEU)
- Precautionary principle (art. 191(2) TFEU), and
- Environmental procedural rights (EU law, implementing the 1998 Aarhus Convention and the European Convention on Human Rights)

The EU has adopted or, at least, considers the **ecosystem approach** in some **areas of particular interest to Scotland**:

- Management of marine areas and coastal zones, and
- Sustainable agricultural production.

In Scotland, EU law has supported:

1. An ***integrated (ecosystem-based) approach*** to nature conservation
2. ***Environmental mainstreaming*** across all economic sectors

Key considerations for policy-makers to address the implications of Brexit for the future of nature protection in Scotland are therefore the **linkages**

- Among different pieces of EU environmental law,
- Between EU environmental law and other areas of EU law, and
- Between EU environmental law and international law

The appraisal of these interlinkages facilitate discussion on the role of EU law in supporting Scottish communities' ecosystem stewardship and ensuring compliance with environmental law.

SCELG's ongoing work on BREXIT – Policy briefs available here

- *Scottish Universities Legal Network on Europe, **The implications of Brexit for environmental law in Scotland*** (forthcoming, coordinated by Annalisa Savaresi, University of Sterling, and Antonio Cardesa-Salzmann, University of Strathclyde)
- M Geelhoed, *A Legal Perspective on the Value of Scotland's EU Membership for the Agro Environment*, SCELG Policy Brief 4/2016
- M Ntona, *A Legal Perspective on the Value of Scotland's EU Membership for Sustainable Fisheries*, SCELG Policy Brief 5/2016
- E Morgera, A Cardesa-Salzmann, A McHarg, M Geelhoed and M Ntona, *Rights protected under EU law concerning the environment*, SCELG Policy Brief 6/2016



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The Impacts of BREXIT on Scottish Agro-Environmental Stewardship

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BREXIT, Agriculture and the Environment

- Only 1% of the Scottish economy, however:
- Around 80% of the Scottish environment
- **What is the role of law in supporting and preventing good agro environmental stewardship?**





The International Plant Protection Convention

FAO

The International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGR)

Rotterdam Convention (Hazardous Chemicals)

Cartagena Protocol on Biosafety (GMOs)

Convention on Biological Diversity

Nagoya Protocol on Access to Genetic Resources and Benefit-Sharing

WTO
Et cetera.
MEAs

Regime on the authorisation of GMOs

Regime for Biocidal and Plant Protect Products

Regulation on Organic Produce

Regime on Quality Labelling

Fertiliser Regulation

**Common
Agricultural
Policy**

Pillar I:

Basic Payment Scheme
(incl. Greening Payments)

Pillar II:

Rural Development Program

An Integrated Approach
(e.g. Cross-Compliance)

Nitrates Directive

Habitats & Bird Directives

Water Framework Directive

Directive on Sewage Sludge

Implementation:

Directive/Regulation

Minimum/Maximum Harmonisation

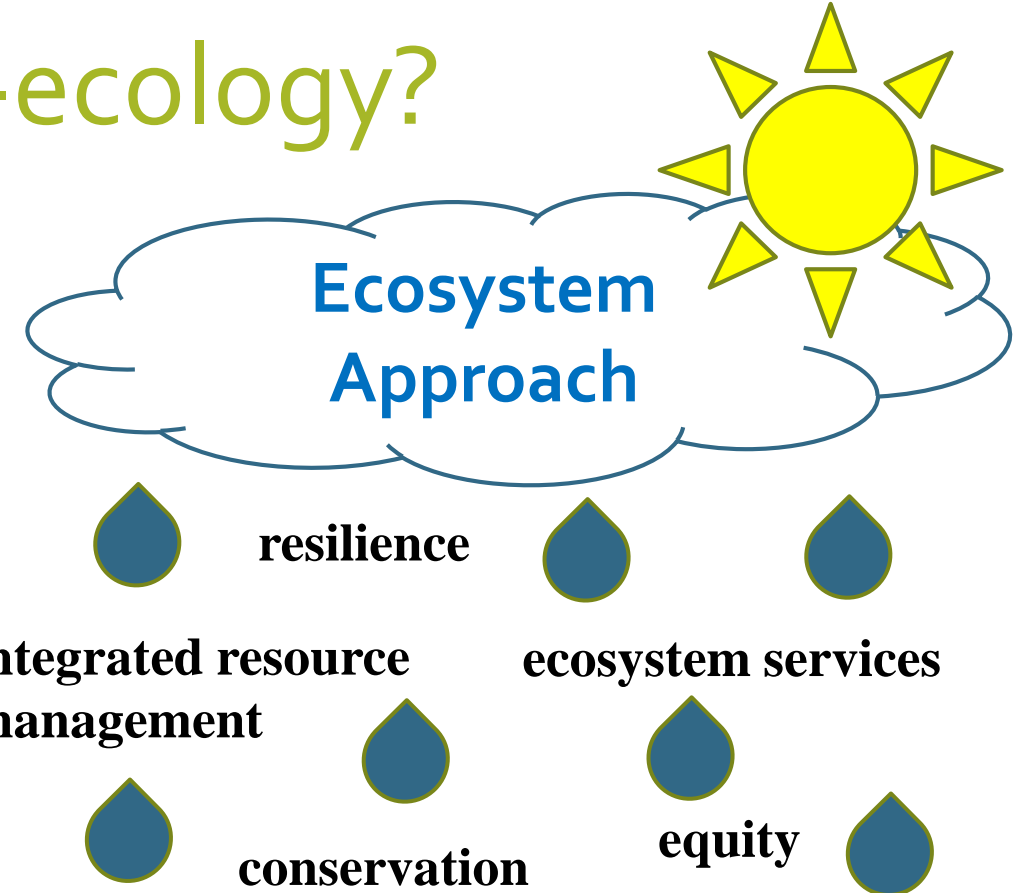
Agriculture & the Environment

Treasury & Trade



Scotland Land of... Agro-ecology?

- (Better) Targeted Subsidies
- Better Tailored Legislation
- Recognition of best efforts
 - Sustainability as a journey: between organic and 'conventional' farming
- From farmer to plate:
 - Machinery, chemicals, (+ agronomists), processing and retail etc.



Good Food Nation Bill?

National Performance Framework
Indicator: Increase Natural Capital

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