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Examples of climate laws

The UK Climate Change Bill

Report

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Summary

In mei 2008 werd door een coalitie van 30 milieu- en ontwikkelingsorganisaties, een Klimaatwet gepresenteerd. CE Delft is door Milieudefensie, één van de trekkers van de campagne rondom deze Klimaatwet, gevraagd om naar klimaatwetten in buurlanden te kijken. In het Verenigd Koninkrijk is recent de 'Climate Change Bill' in werking getreden, waarin wettelijk is vastgelegd dat in 2050 de klimaatemissies met 80% gereduceerd moeten zijn (t.o.v. 1990).

De Engelse klimaatwet richt zich op zowel ETS als niet-ETS sectoren en op zowel mitigatie als adaptatie. De Klimaatwet bestaat uit vijf delen:

- 1 In deel 1 van de wet staat het reductiedoel voor 2050, waaronder overigens ook het Britse aandeel in internationaal vliegverkeer en internationale scheepvaart valt. Elke vijf jaar moet een klimaatbegroting opgemaakt worden in lijn met het lange termijn doel. Elk jaar wordt, tegelijkertijd met de begrotingsbesprekingen, de voortgang van het halen van de doelen door het parlement gecontroleerd.
- 2 De Committee on Climate Change wordt opgericht met het doel de behaalde emissiereducties jaarlijks te monitoren en te bepalen hoe de emissiedoelen gehaald kunnen worden.
- 3 De wet kan gebruikt worden om een emissiehandelssysteem voor de niet-ETS sectoren op te zetten.
- 4 De impact van en adaptatie aan klimaatverandering voor Engeland wordt elke vijf jaar bepaald.
- 5 In deel 5 wordt een aantal andere opties om klimaatsverandering tegen te gaan genoemd.

Er worden in de wet geen sancties genoemd als de doelen niet gehaald worden. In principe zou een partij naar de rechter kunnen stappen, maar dan moet wel bewezen kunnen worden dat de overheid nalatig is geweest. Dat zal niet makkelijk zijn, maar de kans op succes is groter dan andere Britse wetgeving omdat in dit geval de overheid de adviezen die de Committee of Climate Change geeft om de doelen te halen, genegeerd heeft. De jaarlijkse beoordeling van de voortgang door de Committee on Climate Change, de jaarlijkse parlementaire controle van die voortgang, het voorkomen van gezichtsverlies en de dreiging van een rechtszaak zijn de voornaamste redenen dat de overheid zich aan zijn doelen zal houden.

Het voornaamste voordeel van de Britse klimaatwet is niet zozeer het stellen van een lange termijn doel; vanuit de EU zijn er immers al emissiereductiedoelen voor 2020 (overigens niet voor 2050). Er is echter nog grote onzekerheid *hoe* (en of) dit doel gehaald gaat worden. Met de Climate Change Bill zal elke vijf jaar de benodigde emissiereductie (het carbon budget) en de klimaatmaatregelen bepaald moeten worden. Een onafhankelijke organisatie, de Committee on Climate Change, zal de emissiereductie jaarlijks monitoren en aanbevelingen doen voor mitigatie en adaptatie.

Andere voordelen van de Climate Change Bill:

- Klimaatbeleid wordt door de wet minder afhankelijk van de politieke en economische situatie.
- Een emissiehandelssysteem voor niet-ETS sectoren wordt mogelijk gemaakt.

In vergelijking met het Nederlandse klimaatbeleid ('Schoon en Zuinig') staat de Climate Change Bill sterker, voornamelijk door de juridische basis. De Climate Change Bill dwingt elke regering om regelmatig beleidsplannen te maken waarbij rekening wordt gehouden met het advies van een onafhankelijke Committee on Climate Change. De Britse klimaatwet creëert veel meer politieke mogelijkheden om (soms impopulaire) maatregelen te implementeren die klimaatsverandering tegengaan.



1 Introduction

1.1 Background

A coalition of 30 Dutch environmental- and development organizations presented a Climate Law in May 2008. Milieudefensie is one of the environmental organizations of this coalition and main campaigner for the Climate Law. By order of Milieudefensie, CE Delft has researched climate laws in two neighbor countries (the United Kingdom and Germany) to determine whether the Dutch climate policy can benefit from the introduction of similar climate laws. The United Kingdom has the UK Climate Change Bill, an overall climate bill. Germany has the energy saving and climate protection package that contains many elements including the Renewable Energy Sources Act (EEG) and the Renewable Energies Heat Act (EEWärmeG).

1.2 Aim of the study

The aim of this report is to describe the main characteristics of the climate law in the United Kingdom. Our analysis covers such elements like goals, mechanisms, enforcement and status. Description and a preliminary evaluation of the climate laws and existing measures in neighboring countries can provide a valuable input to the debate about accentuating the Dutch climate policy.

1.3 Structure of the study

The study is divided into two parts. Chapter 2 describes the UK climate change bill. Summary and concluding remarks will be given in chapter 3.



2 Climate Change Bill (UK)

2.1 History

In March 2007 the UK government introduced a draft Climate Change Bill. The Bill completed its passage through the House of Lords in March 2008. The Climate Change Bill is initiated by the non-governmental organization 'Friends of the Earth' via a campaign 'The Big Ask'. The campaign consisted of actions like a first draft bill, a parliamentary petition and the Big Ask Live Concert in London.

The aim of the climate bill is that the net UK carbon account should be at least 80% lower than the 1990 baseline in 2050. This includes both the ETS and the non-ETS sectors. Recently, the parliament has made key decisions to include aviation and shipping emissions within the landmark climate change bill¹. The move followed a campaign by environmentalists and some pressure of the Labour Party.

On 28 October 2008 the bill was given a third reading² and was adopted with 463 votes against 3 in the House of Commons. At the moment Britain is the first country in the world that has a legal framework for reducing carbon emissions. The main advantage of this bill is that there is a legally binding reduction goal for the long term. Furthermore, the bill obliges the government to define a strategy *how* to achieve these goals.

2.2 Structure of the Bill

The Climate Change Bill concentrates on both mitigation and adaptation. It requires a target for the year 2050 for the reduction of greenhouse gas emissions (part 1) and establishes a Committee on Climate Change (part 2). The bill also stimulates trading schemes for the purpose of limiting greenhouse gas emissions or removing greenhouse gases from the atmosphere (part 3). The bill requires making provisions about adaptation to climate change (part 4); and lists some other provisions which relate to the reduction of domestic waste and the Renewable Transport Fuel Obligation (part 5).

2.3 Part 1: Carbon target and Budgeting

The main issue of this part of the Bill is the duty of the Secretary of State to reduce the net UK carbon account for the year 2050 to at least 80% below the level of net UK emissions of greenhouse gases in 1990. These emissions must include the UK part of the emissions from international aviation and shipping. Emission reductions purchased overseas may be counted towards the UK's

¹ A new clause is added to the bill which places a duty on the Committee on Climate Change to advise the Secretary of State on the consequences of treating climate emissions from international aviation and shipping as emissions from sources in the UK. Furthermore, the Secretary of State and the Committee on Climate Change need to take the emissions from international aviation and shipping into account when setting the future budgets.

² The third reading is the last required reading of a bill before the vote on the final passage.

Targets, consistent with the UK's international obligations. This possibility is not limited in the Bill.

It also requires the Secretary of State to set 'carbon budgets' representing UK emissions for five year periods beginning with the period 2008-2012. For each carbon budget the Secretary of State has to assess indicative annual ranges, for the net emissions per year. It requires that each carbon budget is set in a way that is consistent with the Government's target to reduce emissions by between 26 and 32% by 2020, against 1990 levels. This approach is more flexible than annual targets would be. The Secretary of State may decide to carry back part of the carbon budget for a budgetary period to the preceding budgetary period. However, the amount carried back may not exceed 1% of the carbon budget for the later period.

To realize 80% reduction in greenhouse gases, the Bill formulates the duty to prepare proposals and policies to meet the carbon budgets for the current and future budgetary periods. The Secretary of State must explain in a report the implications of these proposals and policies with regard to the greenhouse gas reduction in each period and how these measures affect different sectors of the economy.

It is the duty of the Secretary of State to monitor the levels of the UK emissions, UK emission removals and net UK emissions of greenhouse gases in each year. The 'UK removals', in relation to greenhouse gases, means removals of these gases from the atmosphere due to land use, land-use change or forestry activities in the United Kingdom. The higher these removals, the lower the necessary emission reductions.

2.4 Part 2: The Committee on Climate Change

A key part of the Bill is the duty to establish The Committee on Climate Change, which will independently assess how the UK can achieve its emissions reductions goals for 2020 and 2050. In addition, the Committee has to report annually on the progress being made with the greenhouse gases reduction, the further progress which is needed, and whether the budgets are likely to be met. Furthermore, when requested by a national authority, the Committee must provide assistance and information on matters like statistics relating to greenhouse gases, how much effort should be made in the UK and overseas, how much effort should be made via the trading schemes versus the rest of the economy and the adaptation to climate change. In making its recommendations, the Committee on Climate Change must balance a range of economic, social and environmental factors.

The Bill proposes that the statutory Committee comprises a Chair and 5-8 members, who will be supported by a standing secretariat of staff. A 'shadow' Committee was set up to advice on the draft Bill. The Committee will be turned into the official body when the Bill is definitive. Since 22 February 2008, the shadow Committee's members are: the Scientists Sir Brian Hoskins and Lord



Robert May, a technology expert Professor Jim Skea, and the economists Dr. Sam Fankhauser and Professor Michael Grubb. The Chair is Lord Adair Turner.

On 1 December 2008 the first report of the Committee has been made public³. This report includes the Committee's view on the 5-year goals and how these goals will be met. Furthermore, a limit on emission reductions purchased overseas is recommended. The government is not obliged to follow these recommendations, but probably will do this. A summary of this report is given in annex A.

In a new amendment to the Bill the Government has a *duty* to limit the overseas emission reductions counted towards each carbon budget. The limits will be set in secondary legislation and based on the advice of the Committee on Climate Change.

2.5 Part 3: Trading schemes

The Bill can be used to introduce new trading schemes for the non-ETS sectors, via secondary legislation. An example of a UK trading system that is under preparation is the Carbon Reduction Commitment (see text box). Before making regulations under this Part, a national authority must obtain advice of the Committee on Climate Change, and consult the entities likely to be affected by the regulations. The activities to which trading schemes may apply involve, in particular:

- Consumption of energy.
- Use of materials which production involved energy use.
- Disposal other than recycling of materials which production involved energy use.
- Production or supply of anything which subsequent use directly causes or contributes to greenhouse gas emissions.

Carbon Reduction Commitment (CRC)

The new emissions trading scheme in the UK is called the Carbon Reduction Commitment and will be used to carbon emissions reduction in the service sector, public sector and other less energy-intensive industries. The CRC will be a mandatory emissions trading scheme, targeting emissions which do not fall under the EU ETS. All organizations that have an electricity use greater than 6,000 megawatt-hours (MWh) per year, are included in CRC. For example, supermarket chains like Tesco or national stores. Collectively, they have an energy use greater than 6,000 MWh.

Probably the regulation will be in force in October 2009. During a planned introductory phase, due to start in April 2010, all allowances will be sold at a fixed price. From April 2013, allowances will be allocated through auctions with a diminishing number of credits available over time. Participants will also potentially be able to buy EU ETS allowances to comply with their emissions cap - this would be a buy-only link to effectively create a price ceiling for credits in the CRC.

³ www.theccc.org.uk.

2.6 **Part 4: Impact of and adaptation to climate change**

It is the duty of the Secretary of State to assess the risks for the United Kingdom of the current and predicted impact of climate change, and to report the Parliament about this every five years. On these risks, the Committee has to advise the Secretary of State six months before the publication of the report.

Soon after this report the Secretary of State will be required to publish a program setting out how the UK will address these likely impacts. This program should contribute to sustainable development. Every two years, the Committee has to report the progress made with the objectives, the proposals and the policies set out in the program.

The Bill also introduces powers for Government to require public bodies and companies providing public services to carry out their own risk assessment and make plans to address those risks.

2.7 **Part 5: Other measures to reduce emissions**

This part of the Bill gives some other powers to reduce greenhouse gases.

2.8 **Enforcement**

In this bill the Government is the party responsible for meeting the climate goals. So initially, the enforcement applies to the Government and not to the stakeholders. In principle every stakeholder can take the Government to court when the carbon account for a budgetary period exceeds the carbon budget. But the accuser has to prove that the government did not make enough effort to meet the climate goals. This is not easy, according to 'Friends of the Earth'. They experienced that with an other act called 'The warm homes and energy conservation act 2000'. Poorly insulated homes require people to burn much fossil fuels to keep warm. The law required the Government to do everything 'reasonably practicable' to eliminate fuel poverty by 2016. Friends of the Earth in cooperation with the organization 'Help the Aged' took the Government to court over their failure to tackle fuel poverty. In October 2008, the High Court has ruled that the Government has not broken the law by failing to keep homes warm, despite allowing the number of households in fuel poverty to reach the highest level in ten years⁴. Friends of the Earth learned from this case and proposed the duty to monitor and to make progress reports every year. Besides that, there is an independent Committee on Climate Change that will advise the government on the policy measures. The legal case will be much stronger when the Government neglects their advices and when the progress reports show that the goals are not being met. Penalties are expected to be social embarrassment for the Government, that they have to redevelop their climate policy and that they have to pay the legal costs.

⁴ http://press.helptheaged.org.uk/_press/Releases/_items/_Government+fuel+poverty+failure+escapes+legal+reprimand.htm.



David Kennedy (chief executive officer of Secretariat to the CCC) also thinks that political embarrassment is the main sanction. Especially now: climate change is high on the public agenda, so the Government would do everything in its power to meet the goals.

2.9 Effectiveness

A potential conflict could arise between the goals in the Climate Change Bill, applying to both ETS and non-ETS sectors, and the EU target for the ETS sectors⁵. David Kennedy does not think this conflict will arise, since the EU targets are also quite strict for the UK. Furthermore, applying the Bill to only non-ETS sectors would not eliminate the problem, because non-ETS sectors are also included in European legislature. According to David Kennedy, the Climate Bill is more about *how* to meet the goals than about the goals itself. The Bill will make sure that the government defines 5-yearly carbon budgets and implements measures and policies to meet the target.

⁵ For example when the Climate Change Bill prescribes a stringent target, while the EU target for the ETS sectors is not so stringent. This would mean that a very large burden would fall on the non-ETS sectors.



3 Conclusions

In this chapter we will draw conclusions from the climate policy in the United Kingdom for the Dutch situation.

3.1 Lessons to be learned from the UK

The Climate Change Bill is an overall bill for mitigation and adaptation. It requires 80% CO₂ reduction in 2050 and to set carbon budgets each five year. An important advantage is that the Bill makes climate policy less dependent on government principles and economic situations.

According to the Climate Change Committee, the main advantage of the Bill is that it requires the government to make policy plans for emission reduction every five years. This will give an enormous impulse to climate policy. It gives the government reason to implement strong effective climate measures and new trading systems for non-ETS sectors. Thanks to the Bill the independent 'Committee on Climate Change' will be set up. This Committee has to research on both mitigation and adaptation subjects, and has to make recommendations to the government.

The present climate program in the Netherlands ('Schoon en Zuinig') has a focus on voluntariness. In the future this will probably change, if this strategy turns out to be ineffective. In comparison with the Dutch climate policies the Climate Change Bill is much stronger because of the legal basis. The Climate Change Bill forces each government to make policy plans regularly and to take the advice of an independent Committee on Climate Change into account. It creates much more political possibilities to implement (sometimes unpopular) effective measures to mitigate or adapt to climate change.

Another advantage of the Bill in comparison with Dutch policy is that there is a long term goal (80% in 2050) that cannot be changed. The Dutch government did not set a long-term climate goal. There is a goal for the middle term; in 2020 the CO₂ emission should be 30% lower than in 1990 in the Netherlands. This goal was assessed by the present government, and is not legally bounded. A next government can decide to abandon this goal.

3.2 Overall conclusions

While there are targets in a European context to reduce climate emissions, a climate bill could help in setting a long-term goal (for example 80% reduction in 2050) and in making sure this goal is met. For example, in the UK the government has to set 5-yearly carbon budgets and explain how she will achieve these budgets. For other European countries with a reduction goal in 2020 the question how this goal will be met still has to be answered.

Advantages of the UK Climate Change Bill are:

- It introduces an emission trading system for the non-ETS sectors.
- It has a long term goal of 80% emission reduction in 2050.
- It forces governments to make 5-yearly carbon budgets and implement measures to reach these budgets in order to achieve the long term goal.
- It establishes the Committee on Climate Change that will independently assess how the UK can achieve its emission reduction goals.

There are no specific sanctions mentioned in the Bill when the Government fails to achieve its target, but probably political embarrassment will be a big enough punishment and otherwise third parties could take the Government to court.



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A Summary of the CCC's report

A.1 Introduction

The first report by the Committee on Climate Change (CCC) called 'Building a low-carbon economy – the UK's contribution to tackling climate change' was released on December the 1st 2008.

This report includes the Committee's view on the 5-year goals and how these goals will be met. Furthermore, a limit on emission reductions purchased overseas is recommended. Below, the main conclusions from the CCC's report are listed.

A.2 The 2050 target

By 2050, Kyoto greenhouse gas emissions of the UK should be reduced by 80% compared to the 1990 level (or 77% compared to the 2005 level). This target includes emissions from international aviation and shipping. The majority of this reduction needs to be achieved by domestic action.

To achieve this long term cut in GHG emissions, several technologies (in power, buildings and industry, transport) are needed.

For decarbonisation of the power sector the following technologies can be used:

- Renewable generation. Wind energy, for example, could be a major source of electricity (30% by 2020).
- Nuclear power. Nuclear power is cost competitive with fossil fuels. The Committee admits that there are risks associated with long term nuclear waste storage, but notes that it cannot conclude whether these risks are acceptable or not.
- CCS (Carbon Capture and Storage). CCS needs to be developed rapidly; it is essential to invest in projects that employ CCS technologies in large-scale installations now.

In total, power sector emissions reduction of 40% below the 1990 level is achievable by 2020.

Emissions reductions in buildings and industry can be achieved through:

- Energy efficiency improvement (use of more efficient appliances, wall insulation). This is especially important in the period to 2020.
- The introduction of new technologies (storage heating, the use of sustainable biomass, CCS in cement and steel).

Transport sector decarbonisation is possible by:

- Increasing the carbon efficiency of vehicles.
- Introducing new technologies like electric cars, hydrogen vehicles.
- Increasing the use of biofuels.

Meeting the 2050 target is possible with acceptable costs in the order of 1-2% of GDP in 2050.

A.3 Carbon budgets

Carbon budgets set a ceiling on GHG emissions for 5-year periods. In the report, three carbon budgets (for 2008-2012, 2013-2017 and 2018-2022) are proposed.

The EU has agreed to cut its GHG emissions by 20% in 2020 relative to 1990 and by 30% if there is a global agreement to reduce emissions. Two sets of carbon budgets are therefore given: one if a global deal is reached ('intended') and one before a global deal is reached ('interim'). The Committee estimates that for the 20% EU target, the UK is required to reduce its emissions by 29% in 2020 relative to 1990. For the 30% target, it is estimated that the UK would have to reduce its emissions by 40%. See also Table 1.

International shipping and aviation should not be part of the budget, since there still are unresolved issues how to allocate these emissions to nations. Instead it is proposed to report annually on the progress of reducing emissions from international shipping and aviation.

Table 1 Moving from the EU target to UK targets (percentage reduction 1990-2020)

EU overall target	20%	30%
EU overall target excl. aviation	22%	32%
UK's likely share excl. aviation	34%	42%
Correction for LULUCF and domestic aviation	29%	40%

Source: CCC analysis.

Table 2 shows how the EU target would be split in UK targets for the ETS and non-ETS sectors.

Table 2 Emission reduction 2005-2020 (in percentages) for the UK

EU overall target	20%	30%
ETS (UK)	29%	44%
Non-ETS (UK)	16%	22%
Whole economy	22%	32%

Source: CCC analysis.

The EU framework also includes legally binding trajectories from 2013 for the ETS and non-ETS targets for 2020. Each Member State is required to approach the targets through a straight line trajectory from 2013 until 2020. The Committee sees no advantages in setting a trajectory for emission reduction that is more ambitious than this EU framework.

Three scenarios for emission reduction are presented:

- The Current Ambition scenario, dominated by energy efficiency improvement in buildings and decarbonisation of the power sector.
- The Extended Ambition scenario, which also includes lifestyle changes, increasing use of renewable heat and improved fuel efficiency in vehicles.
- The Stretch scenario, which also includes wall insulation and speed limiting.



For the non-ETS sectors, the Extended Ambition scenario is enough to reach the 20% GHG target in 2020, but not enough for the 30% target. However, with the Stretch scenario the 30% target can be reached.

For the ETS-sectors, the Stretch scenario would be enough to meet the 20% target, but the 30% target cannot be met with domestic action alone.

The Committee urges the Government not to purchase offset credits (like CDM) to achieve its interim budget. In the transition period from the interim to the intended budgets, the Government is allowed to buy offset credits. The Committee proposes that the maximum use of credits purchased overseas in the non-ETS sectors should be no more than the extra needed effort to move from the Interim to the Intended budget in the non-ETS sectors.

The amount of CDM credits that companies are allowed to purchase under EU ETS is appropriate according to the Committee. Further restricting the use of credits in EU ETS is therefore not needed.

It is the recommendation that in the interim case, less than 10% of the emission reduction should be purchased overseas and in the intended case, less than 20%.

Note

UK's target to reduce its emissions by 20% in 2010 relative to 1990 will not be met. Based on the calculations by the Committee, emissions in 2010 will be 14% below the 1990 level.