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ADVISORY REPORT

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The UN Climate Change Conference in Durban

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Main points

State of Affairs

The most recent emissions data reveal that emissions in 2010 increased sharply once again after the reduction in 2008-2009 resulting from the crisis. Even though it are mainly Non-Annex I countries that are responsible for the current and expected significant future increase in emissions, on the basis of equity considerations it can be argued that Annex I countries must continue to take the lead in the fight against climate change. The EU appears to be on schedule to meet its Kyoto targets but not to reduce its emissions by 20% by 2020. Belgium, just like the EU as a whole, is not on schedule to meet its 2020 target.

In Cancun the negotiation process was put 'back on track' and a large number of major decisions were taken on concrete subthemes. This does not change the fact that the Cancun Agreements are just a small step in reducing global greenhouse gas emissions. Furthermore many in-principle decisions were taken in Cancun the concrete elaboration of which has been left to the Climate Change Conference in Durban, and no decision was taken in Cancun about the future of the Kyoto Protocol. The agenda for Durban can, in principle, be summarised in four points. 1) Closing the mitigation gap. 2) Closing the financial gap. 3) The legal form of the envisaged comprehensive climate change agreement and the future of the Kyoto Protocol. 4) The elaboration of the in-principle decisions based on the Cancun Agreements can be considered as the 'fourth' agenda item.

Mitigation

On the basis of the fourth IPCC Assessment Report, the Environment and Nature Council of Flanders (Mina Council) believes that, as a group, developed countries must reduce their greenhouse gas emissions by between 25 and 40% in 2020 and between 80 and 95% in 2050 compared with 1990 levels, to be able to achieve the two-degree objective. On the basis of this description of the situation the unconditional EU target to reduce emissions by 20% before 2020 is inadequate in light of the necessary reductions in the long term. Analyses by the European Commission and the European Environment Agency reveal that a 25% reduction of emissions is feasible by 2020. The Mina Council is therefore calling once again for the EU to hold a serious debate about raising its targets. It is already expected that the incoming Danish Presidency will place this discussion high on the EU agenda once more.

On a national level the Mina Council is calling for urgent work to be done on the Belgian internal burden sharing of our country's national target based on the *Effort Sharing Decision*. The Mina Council stresses that it is important that an agreement is reached based on the Belgian contribution to the present EU target as well as to (potentially) higher EU reduction targets in the future. This is to avoid a situation whereby difficult negotiations would arise once more as a result of a potential tightening of the EU target. The European Commission has promised an analysis on the effects of raising the EU target at Member State and sector-wide level. Therefore the Mina Council is also calling for a Belgian position to be adopted on the EU target in the framework of Federal Government negotiations.

The Mina Council stresses the general principle that Flanders must first strive to achieve all internal available reduction measures that are cheaper than using the flexibility mechanisms so that the use of flexibility mechanisms can be limited to situations where they are absolutely necessary. Up-to-date marginal cost curves are urgently needed so that an assessment can be made about which internal measures must be given priority.

Although the Cancun Agreements' acknowledgement of the need for a fair transition is a crucial first step, the Mina Council believes that merely stating this concept is not enough. The Mina Council believes that it is useful to involve the International Labour Organisation in employment-related themes in climate change policy and stresses that the social dimension must also be included in the context of the EU roadmap to a low carbon economy in 2050.

Finance

It is said that the EU is on schedule for its contribution to fast-start financing. The Mina Council points out that, based on an equitable international burden sharing of long-term financing, the EU must raise its climate financing sharply between 2012 and 2020. On the basis of information in the Mina Council's possession, Belgium must release more than 85 million euros for its contribution to fast-start financing. The Mina Council points out that if the current contribution scale was applied to an expected EU contribution of approximately 33 billion euros, this would mean that the Belgian contribution would increase tenfold by 2020. Although Flanders has provisionally allocated 1.5 million euros in the 2012 budget, the Mina Council points out that the final Flemish contribution will be much higher. Therefore the Mina Council also calls for work to be done on an internal Belgian distribution of fast-start financing as soon as possible so that it is clear for the various Regions what efforts they still need to make.

Considering the great potential for profits from trading emission rights, and in the light of conflicting visions with regard to the latter, the Mina Council calls for timely agreements to be made about the way in which Belgium/Flanders plans to allocate this income. The Mina Council is unreservedly calling for these profits to be used for climate change policy.

The legal form of the climate change agreement

The Mina Council recognises that the Kyoto Protocol is inherently limited to achieving the two-degree objective. The Council, however, believes that the true value of the Kyoto Protocol lies in the fact that it is the only international rules-based legally binding policy framework. The EU's open attitude towards the Kyoto Protocol was, according to the Council, an important reason why the Climate Change Conference in Cancun was more constructive than the Climate Change Conference in Copenhagen. Therefore the Mina Council also calls for Belgium, as an EU Member State, to ensure that the opportunity for an agreement on a second commitment period remains as great as possible. Furthermore the Council points out that in addition to the decision about the future of the Kyoto Protocol there are many more items on the agenda that deserve the negotiators' attention.

Effective follow-up is essential

It is clear that decisions on an international and European level have far-reaching consequences for Belgium and Flanders and that these result in difficult internal Belgian negotiations on the distribution of efforts. Therefore the Mina Council also calls for an effective preparation and follow-up of climate change negotiations on all levels.

Introduction

The seventeenth United Nations Climate Change Conference will take place between 28 November 2011 and 9 December 2011 in Durban (South Africa). Climate change policy is an important subject for the Mina Council. In the past the Mina Council has issued a number of advisory reports on Flemish climate change policy. In 2011 the Mina Council already received the draft memorandum that outlines the preparatory schedule for the next Flemish climate change policy plan and issued an advisory report on the latter on 20 October 2011.

The Mina Council is aware that the broad lines of climate change policy are set out at European and international levels. In international negotiations the Belgian position is expressed through the EU position, and the EU position is the starting point for EU interventions during international negotiations in South Africa. The 27 Member States reached agreement on the EU position in the ECOFIN Council on 4 October 2011, the Environment Council on 10 October 2011 and the European Council on 23 October 2011. On 22 September, during preparations for the EU position but prior to the adoption of the Council's conclusions on the matter, the Mina Council issued a short advisory report, on its own initiative, as a perspective on the EU position.

After having taken note of the EU position and as announced in the short advisory report dated 22 September 2011, the Mina Council decided to pursue the tradition started in 2009 and, in the wake of its previous advisory reports on the Climate Change Conferences in Copenhagen (2009) and Cancun (2010), to issue a more detailed advisory report on the occasion of the annual UN Climate Change Conference.

In the first instance, the Mina Council intends to use this advisory report to present an up-to-date state of affairs of UN and EU climate change negotiations. On the basis of this description the Mina Council is formulating a number of recommendations of a strategic nature in which the EU position is the first point for concern. The recommendations in this advisory report primarily involve the position that the Mina Council believes the EU should take in UN negotiations. The report then goes on to discuss the question of how Belgium could best position itself in internal EU negotiations. The consequences of the EU position for Belgium and the way in which Belgium complies with the targets in the framework of EU climate change policy are inextricably linked and are also addressed in the advisory report.

Marc Van den Bosch,
Mina Council Chairman

Advisory report text

1. State of affairs, the facts: emissions and concentration of greenhouse gases

1.1. The world

1.1.1. Current emissions

The difference between CO_2 and CO_2 equivalent

When interpreting and comparing figures for the emission of greenhouse gases it is important to know what unit of measurement was used. If emission levels are expressed in CO_2 this means that the figure only relates to emissions of CO_2. CO_2 is the most important but not the only greenhouse gas that is responsible for global warming. The Kyoto Protocol refers to the emission of six greenhouse gases: carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), fluorocarbons (HFKs), perfluorocarbons (PFKs) and sulphur hexafluoride (SF_6). On 14 September 2011 the European Parliament adopted a resolution[1] which calls for a comprehensive EU climate change policy that takes account of all global warming sources and does not just strive for a reduction of CO_2 emissions. The various greenhouse gases have different capacities for global warming. To be able to compare the emissions of different greenhouse gases in a meaningful way, the CO_2 equivalent measurement unit is used. This is a relative measurement of the global warming capacity of a greenhouse gas expressed in relation to the global warming capacity of CO_2, the reference gas. For example the global warming capacity of methane is 21 times higher than that of CO_2. One tonne of methane is equal to 21 tonnes of CO_2 equivalent. An emissions figure expressed in CO_2 equivalent therefore not only relates to emissions of CO_2 but also to emissions of various greenhouse gases.

[1] CO_2 emissions on a global scale[2]. The International Energy Agency (IEA) publishes an annual '*CO_2 Emissions from Fuel Combustion*' report. Because knowledge of the sources and the geographical distribution of global CO_2 emissions is essential in the framework of UN climate change negotiations, the IEA publishes a highlights version[3] of this report with a brief presentation of the essential information, available free of charge. The highlights version that was published in 2011 relates to emissions up to and including 2009. The IEA explicitly states that energy use in 2009 was influenced by the economic crisis, which means that some trends related to CO_2 emissions may be misleading.

Between 1971 and 2008 global CO_2 emissions doubled from 14 Gt in 1971 to 29 Gt in 2009. Between 2008 and 2009 global CO_2 emissions decreased by 1.5% (0.5 Gt). In the 2011 report the IEA already pointed out that provisional estimates indicated that CO_2 emissions in developed countries in 2010 might return to levels before the financial and economic crises while emissions for developing countries would continue to rise. As the IEA also indicates, the fall in CO_2 emissions on a global scale seems primarily to be the result of the economic crisis and not the start of a new trend. The most recent IEA estimates[4] reveal that CO_2 emissions in

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[1] Also refer to the European Parliament Resolution of 14 September 2011 on a comprehensive approach to non-CO_2 climate-relevant anthropogenic emissions . Available at: http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+MOTION+B7-2011-0474+0+DOC+PDF+V0//EN

[2] The figures in the IEA report only relate to CO_2 emissions and not to other greenhouse gases. In other words the emissions unit is CO_2 and not CO_2 *equivalent*.

[3] IEA (2011), CO2 Emissions from Fuel Combustion Highlights (2011 Edition). Available at: http://www.iea.org/co2highlights/co2highlights.pdf.

[4] IEA, "Prospect of limiting the global increase in temperature to 2°C is getting bleaker", 30 May 2011. Available at: http://www.iea.org/index_info.asp?id=1959.

2010 reached a record high. After the reduction in global CO_2 emissions in 2009 it is estimated that emissions increased to 30.6 Gt in 2010, representing a 5% increase compared to the previous record (29.3 Gt) reached in 2008. The U.S Department of Energy has also concluded that CO_2 emissions for 2010 have increased at record speed.

The distinction between Annex I and non-Annex I countries

The distinction that the Climate Change Treaty makes between Annex I Parties (AI Parties) and non-Annex Parties (NAI Parties), and whereby AI Parties have more far-reaching obligations with regard to reducing greenhouse gas emissions as well as (financial) support for the NAI Parties, is essential in the framework of climate change negotiations. The distinction between Annex I Parties and non-Annex I Parties dates back to the signing of the Convention on Climate Change in 1992 and is being questioned more and more in current international climate change negotiations because it no longer reflects the present situation. In particular, rapid economic growth in a number of large (NAI) developing countries presents an argument for this distinction to be reviewed.

[2] A turning point in 2008: NAI countries' emissions were higher than those of AI countries. Since the industrial revolution AI countries have been responsible for most emissions. Given the remarkable economic growth in a number of large NAI countries and the resulting increased demand for energy, the IEA states that '*this long period of dominance will soon end*'[5]. The BRICS[6] countries represented almost a third of global GDP (in 2009), and were responsible for a third of global energy use and 37% of CO_2 emissions. If we divide the CO_2 emissions between AI Parties and NAI Parties an important turning point was reached in 2008. This was the first year in which emissions from NAI countries were higher than those from AI countries. In 2009 this trend continued: compared to 2008 emissions from NAI countries had increased by 3.3% while emissions from AI countries decreased by 6.5%. In 2009 developing countries were responsible for 54% of global CO_2 emissions. Between 1990 and 2009 emissions from NAI countries increased by 132.3% while emissions from AI countries decreased by 6.4%.

The most recent estimates for global CO_2 emissions[7] mentioned above reveal that in 2010 OECD countries were responsible for approximately 40% of global CO_2 emissions but for just a quarter of the increase in emissions compared with 2009.

[3] Ten countries are responsible for two thirds of global CO_2 emissions. In addition to a clear distinction between AI and NAI countries, the report points out the pronounced differences between individual countries. In 2009 two thirds of global CO_2 emissions originated from just ten countries. During that year, total CO_2 emissions amounted to 29 Gt, of which 19 Gt originated from the ten largest emitters. China (6.9 Gt) and the US (5.2 Gt) are by far the largest CO_2 emitters. Together they are responsible for 41% of global emissions. China and the US are followed (at some distance) by India (1.6 Gt), Russia (1.5 Gt), Japan (1.1 Gt), Germany (750 million tonnes), Iran (533 million tonnes), Canada (521 million tonnes), Korea (516 million tonnes) and the United Kingdom (466 million tonnes). In comparison: in 2009 Belgium's emissions amounted to 100.7 million tonnes.

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[5] IEA (2011), *CO2 Emissions from Fuel Combustion Highlights (2011 Edition)*, p. 27. Available at: http://www.iea.org/co2highlights/co2highlights.pdf.

[6] Brazil, Russia, India, China and South Africa.

[7] IEA, "Prospect of limiting the global increase in temperature to 2°C is getting bleaker", 30 May 2011. Available at: http://www.iea.org/index_info.asp?id=1959.

1.1.2. Atmospheric concentrations of $CO_{2(eq)}$

[4] **Atmospheric concentrations of $CO_{2(eq)}$.** According to the fourth IPCC assessment report, in order to be able to limit the average temperature increase to a maximum of two degrees, concentrations of greenhouse gases in the atmosphere, expressed in CO_2 equivalent, must stabilise at approximately 450 parts per million (ppm). The concentration of all greenhouse gases together currently amounts to more than 435 ppm CO_2 equivalent. Over the last decade atmospheric concentrations of CO_2 have increased by approximately 2 ppm per year. According to NOAA[8], atmospheric concentrations of CO_2 increased at almost record speed in 2010 in line with emissions, which also increased at record speed. Atmospheric concentrations of CO_2 increased in 2010 by almost 2.5 ppm compared with 2009; this is the fourth major increase since measurements were first taken in 1959. In 2010 the CO_2 concentration amounted to almost 390 ppm[9].

1.1.3. Equity

[5] **Equity.** It appears, from the overview of (the increase in) emissions and the concentration of greenhouse gases provided above that NAI countries are becoming increasingly 'responsible' for global emissions of greenhouse gases. An informed interpretation of the figures provided above requires that a number of points be analysed.

[6] **Cumulative emissions: current versus historical contribution to CO_2 emissions.** In the first instance climate change is not the result of CO_2 emissions in a particular year but the increasing concentration of greenhouse gases in the atmosphere. To map the concentration of a country or a group of countries with regard to climate change, therefore, it is also important to look at the cumulative sum of historical emissions for a country or group of countries. For the most developed countries it is the historical share, measured since 1850, that is significantly higher than the current share. Between 1850 and 2002 the US and the EU were largely responsible for most of the historical CO_2 emissions[10]. In 2002 the US was responsible for approximately 20.6% of global CO_2 emissions. From a historic perspective, for the period 1850-2002, it contributed to 29.3% of emissions. In 2002 the EU25 represented a share of 14% of global emissions and was, in historic terms, responsible for 26.5% of emissions. The US and the EU are followed at some distance by Russia (responsible for 8.1% of historical emissions) and China (7.6%). Within the EU, Germany (with a share of 7.3% of cumulative CO_2 emissions for the period 1850-2002) and the United Kingdom (with a share of 6.3%) are historically the largest emitters. Conversely, the historical share for most developing countries is much lower than their current share. The historical share for China amounts to 7.6% (compared to a 'current' share of 14.7%). India has a historical share of 2.2% compared to a 'current' share of 5.6%. In general terms, it can be said that in 2002 developing countries were responsible for 41% of global emissions, while their historical contribution amounted to just 24%.

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[8] For exact figures please refer to: http://www.esrl.noaa.gov/gmd/ccgg/trends/.

[9] National Oceanic and Atmospheric Administration (2011), *Trends in Atmospheric Carbon Dioxide.* Available at: http://www.esrl.noaa.gov/gmd/ccgg/trends/. Figures for average annual CO_2 concentration levels from 1959 to 2010 can be found at: ftp://ftp.cmdl.noaa.gov/ccg/co2/trends/co2_annmean_mlo.txt.

[10] K. BAUMERT, T. HERZOG and J. PERSHING (2005), *Navigating the Numbers. Greenhouse Gas Data and International Climate Policy.* World Resources Institute. Available at: http://pdf.wri.org/navigating_numbers.pdf. The share of emissions for the different countries for the year 2000 can be found on p.12. The share of historical emissions for the different countries, emissions accumulated between 1850 and 2000, can be found on p.32.

[7] **CO_2 emissions per capita vary widely.** Secondly emissions per capita vary widely. The US represents 5% of the world population, yet in 2009 it was responsible for 18% of CO_2 emissions. With 24%, China emits a higher share of global CO_2 emissions but represents 20% of the world population. In 2009 India was responsible for 5% of CO_2 emissions and represented 17% of the world's population. This means that emissions per capita vary widely among the top five largest emitters, from one tonne of CO_2 per capita in India to over five tonnes in China, 8.6 tonnes in Japan, 10.8 tonnes in Russia and 17 tonnes for an average resident of the US. Expressed in terms of cumulative emissions as well as in terms of emissions per capita, the US is still one of the largest emitters in the world. In the EU27 CO_2 emissions per capita amounted to 7.2 tonnes in 2009. In comparison: in 2009 CO_2 emissions for Belgium, according to IEA figures, amounted to 9.33 tonnes, which is higher than the EU average. In the European Commission report on achieving Kyoto targets, however, Belgium is described as one of the countries where emission levels per capita (CO_2 eq) have fallen significantly since 1990.

On the basis of the aforementioned most recent estimates[11] for global CO_2 emissions in 2010, the IEA confirms that per capita emissions in OECD countries are still far higher, with an average of ten tonnes, than in China (5.8 tonnes) and India (1.5 tonnes).

With a view to the future, we should add that although Chinese emissions per capita in 2009 amounted to approximately half the average level of per capita emissions in the OECD, Chinese per capita emissions have more than doubled since 1990, and the greatest increase occurred over the last seven years. On the other hand, per capita emissions in OECD countries have been relatively stable since 1990. Per capita emissions in the EU27 decreased from 8.6 tonnes of CO_2 in 1990 to 7.2 tonnes in 2009.

[8] **Consumption-based emissions[12].** Sharply rising emissions from the more advanced developing countries, and from China in particular, constitute a sensitive issue in global climate change negotiations. Thirdly, one could point out an often forgotten aspect of this discussion, namely that the sharply rising emissions of industrialising countries are partly due to the fact that these countries have taken over part of the production from industrialised countries. A study published in the *Proceedings of the National Academy of Sciences* reveals that approximately 23% of global CO_2 emissions are 'mobile'. In other words, approximately a quarter of global CO_2 emissions result from the production of goods that are ultimately consumed in a different country. The dominant pattern here is China producing CO_2 emissions during the manufacture of goods that are subsequently exported to the US, Japan and Western Europe. China is by far the largest net exporter of emissions, while the US, Japan and Western Europe are the largest importers.

A recent study[13] published in the *Proceedings of the National Academy of Sciences*

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[11] IEA, "Prospect of limiting the global increase in temperature to 2°C is getting bleaker", 30 May 2011. Available at: http://www.iea.org/index_info.asp?id=1959.

[12] S.J. DARVIS and K. CALDEIRA (2010), "Consumption-based accounting of CO2-emissions" in *Proceedings of the National Academy of Sciences.* Available at: http://www.pnas.org/content/107/12/5687.full.pdf.

11.11.11 (2011), Dossier on Climate Financing. Available (in Dutch) at: http://www.11.be/11/dossiers/klimaat/artikel/detail/detail/11dossier_klimaatfinanciering_oplossingen_rechtvaardig_klimaatbeleid,104045.

[13] G.P. PETERS, J.C. MINX, C.L. WEBER and O. EDENHOFER (2011), "Growth in emission transfers via

confirms that international trade is an important explanation for the increase or decrease in a country's greenhouse gas emissions. The study calculates that emissions resulting from the production of goods and services that are consumed in a different country, i.e. goods and services that are traded, have increased from 4.3 Gt CO_2 in 1990 to 7.8 Gt CO_2 in 2008. In addition, in most developed countries emissions calculated on the basis of the consumption of goods and services have increased faster that emissions calculated on the basis of domestic production. The net emission transfer from developing countries to developed countries via international trade increased from 0.4 Gt CO_2 in 1990 to 1.6 Gt CO_2 in 2008. In comparison, the authors point out that the reduction in CO_2 emissions that developed countries must achieve under the Kyoto Protocol amount to 0.7 Gt per year. Emission transfers from developing countries to developed countries via international trade are therefore greater than domestic emission reductions in developed countries. In other words the increase in consumption in developed countries is responsible for the increase in global greenhouse gas emissions, though this is not evident in emissions reported to the UNFCCC Secretariat.

In addition to significant historical responsibility for the current CO_2 concentration in the atmosphere, a consumption-based calculation of emissions forms an additional argument to suggest that developed countries, on the basis of equity considerations, must continue to take the lead in global reductions of CO_2 emissions.

[9] **Decoupling.** Finally, emissions of greenhouse gases are best viewed in combination with the degree of economic growth. Emissions from NAI countries are rising rapidly, but their economies are also growing rapidly. This contrasts with the fact that a decoupling has been achieved in the EU27: between 1990 and 2009 greenhouse gas emissions fell by 17.4% while GDP rose by 38%. This decoupling continued in 2009: between 2008 and 2009 , in the EU27 as well as in the EU15, GDP fell by approximately 4% while emissions decreased by almost 7%.

1.2. Kyoto countries

[10] **The Kyoto Protocol applies to less than one third of global CO_2 emissions.** The IEA highlights report[14] reveals that emissions of AI countries with binding obligations under the Kyoto Protocol in 2009 were 14.7% lower than in 1990[15]. The IEA recognises the importance of this finding, adding in the same breath that the capacity of the Kyoto Protocol in the fight against climate change is inherently limited. The countries that have accepted binding reduction targets under the Kyoto Protocol are 'only' responsible for less than a third of all global emissions. (In absolute figures these countries' emissions amounted to 7.5 Gt of global emissions amounting to 29Gt in 2009.)

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international trade from 1990 to 2008" in *Proceedings of the National Academy of Sciences.* Available at: http://www.pnas.org/content/108/21/8903.full.pdf?with-ds=yes.

[14] More specifically p.13

[15] In comparison, the IEA calculates that reduction targets for these countries amount to -4.7% in relation to 1990. Targets under the Kyoto Protocol relate to a basket of six greenhouse gases and allow charges for carbon sinks and the use of emission trading to achieve reductions. According to the IEA, targets for industrialised countries to reduce emissions of (the six) greenhouse gases by 5.2% between 2008 and 2012 are in line with a target to reduce emissions of CO_2 by 4.7% in the period 2008-2012.

1.3. The EU

1.3.1. Current emissions

[11] EU emissions inventory 2009[16]. The European Environment Agency (EEA) publishes an annual emissions inventory with an overview of the EU greenhouse gas emissions that are listed in Annex A of the Kyoto Protocol. These reports provide an overview of emissions of greenhouse gases from 1990 to two years before the year of publication. On 31 May 2011 the EEA published the definitive emissions inventory[17] for the period 1990-2009. It shows that emissions in the EU27 fell by 7.1% between 2008 and 2009 and emissions in the EU27 were 17.4% lower in 2009 than in 1990. In the EU15, emissions fell by 6.9% between 2008 and 2009 and emissions in 2009 were 12.7% lower than 1990 levels. The EEA explains this sharp decrease in greenhouse gas emissions on the basis of the reduced demand for energy as a result of the economic recession combined with the increased use of renewable energy.

[12] Provisional EU emissions inventory 2010. The EEA already announced the provisional emissions inventory[18] for 2010 on 7 October 2011. As expected, it shows that emissions in the EU27 increased in 2010 compared with 2009. In the EU27, emissions increased by 2.4% in 2010 compared with 2009. As a result emissions in the EU27 were 15.5% lower in 2010 than in 1990 (compared with -17.4% for the period 1990-2009). In the EU15, emissions increased by 2.3% between 2009 and 2010, and emissions in 2010 were 10.7% lower than 1990 levels (compared with -12.7% for the period 1990-2009). The increase in emissions was expected due to the gradual recovery from the economic crisis. In addition to economic recovery, the EEA points out that in 2010 the winter was colder and the summer was warmer than in 2009. Both factors resulted in higher demands for heating and cooling respectively, and thus contributed to the increase in the emission of greenhouse gases.

1.3.2. The EU share of global emissions

[13] The EU share of global emissions. In 2009 CO_2 emissions for the EU27 amounted to 3.6 Gt. This means that in 2009 the EU27 was responsible for approximately 12.4% of global CO_2 emissions[19] amounting to 29 Gt.

1.3.3. Distance from the targets

[14] Forecasts for achieving the Kyoto targets and the 2020 target. In addition to the provisional emissions inventory for the period 1990-2010, on 7 October 2011 the EEA also published its forecasts in which it examines whether the EU is on course to 1) meet the Kyoto targets and 2) meet the 2020 target in the climate and energy package to reduce emissions by 20% by 2020.

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[16] In contrast to the IEA report, which includes a number of figures for CO_2 emissions, the EEA emissions inventory relates to the six greenhouse gases that are listed in Annex A of the Kyoto Protocol.

[17] The emissions inventory for the period 1990-2009 is available at: http://www.eea.europa.eu/publications/european-union-greenhouse-gas-inventory-2011.

[18] Available at: http://www.eea.europa.eu/publications/approximated-eu-ghg-inventory-2010.

[19] Own calculation based on the table shown on pages 46-48 of the aforementioned 2011 IEA report.

The EU15 are legally bound in the framework of the Kyoto Protocol to reduce emissions in the period 2008-2012 by 8% compared to 1990. This target is shared between Member States in the Burden Sharing Agreement[20].

The EU is already looking further than 2012 and in the framework of its own climate change and energy policies has established emission reduction targets for 2020. In the climate change and energy package the EU27 has adopted a target to reduce emissions of greenhouse gases by 20% by 2020. This corresponds to a reduction of 14% compared to 2005. This 14% target is spread between sectors participating in the EU Emissions Trading Scheme (ETS) and sectors that are not. Sectors that fall under the ETS are aiming for a 21% reduction in greenhouse gas emissions by 2020 (compared with 2005). Sectors that do not fall under the ETS are aiming for a 10% reduction in emissions by 2020 compared with 2005. The target for non-ETS sectors is shared between Member States in the Effort Sharing Decision.

[15] The EU15 on course for the Kyoto targets[21]. In the framework of the Kyoto Protocol, the EU15 are committed to reduce emissions of greenhouse gases between 2008 and 2012 by 8% compared to 1990. Although greenhouse gas emissions in the EU15 increased by 2.3% in 2010, total emissions are still lower than the Kyoto target (-10.7% for the period 1990-2009). According to EEA forecasts it seems that the EU15 are right on course to achieve their Kyoto targets: forecasts for the remaining years of the first commitment period show that by implementing existing policies greenhouse gas emissions in the EU15 will be 10.5% lower than in 1990. This means the EU15 will exceed their target of 8%.

[16] Each Member State must meet its Kyoto target. Just six of the EU15 Member States will meet their Kyoto targets purely on the basis of domestic measures. If the planned use of flexibility mechanisms and emission reductions as a result of LULUCF (Land Use, Land-Use Change and Forestry) are taken into account, six Member States once again (including Belgium) will meet their Kyoto targets. The EEA forecast takes the surplus in Kyoto units as a result of over performance of some Member States into account. Three EU15 Member States (Austria, Italy and Luxembourg) were not on course to meet their Kyoto targets at the end of 2010. Even though the expected surplus in Kyoto units as a result of the over-performance of the other twelve Member States is greater than the deficit of the three Member States, the EEA emphasises that it is not certain that the well-performing Member States will make their surpluses available to Member States that fail to meet their targets. If the expected over-performance of most Member States is not taken into account, the EU15 may not achieve their Kyoto targets. In this respect it can be said that if the EU15 want to meet their collective Kyoto target, it is necessary for each Member State to meet its Kyoto target as set out in

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[20] Agreement on the determination of the contributions of Member States to the EU's overall target of 8%. The EU (Environment) Council reached an agreement on this issue on 16 June 1998. The Environment Council's conclusions can be found at:http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/envir/09402.EN8.htm.

[21] For more information, see also the European Commission Report in the framework of Article 5 of Decision 280/2004/EG relating to a monitoring system for greenhouse gas emissions in the Community and the implementation of the Kyoto Protocol: EUROPEAN COMMISSION, *Progress towards achieving the Kyoto objectives*, COM(2011) 624, 7 October 2011. Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0624:FIN:EN:PDF . EUROPEAN ENVIRONMENT AGENCY (2011), *Greenhouse gas emission trends and projections in Europe 2011. Tracking progress towards Kyoto and 2020 targets.* EEA Report No 4/2011. Available at: http://www.eea.europa.eu/publications/ghg-trends-and-projections-2011.

the Burden Sharing Agreement[22].

[17] The EU27 are not on course to meet their 20% target by 2020. The EEA predicts that the emission of greenhouse gases will be 19% lower in 2020 than in 1990 solely on the basis of existing measures. In other words, existing policy measures are insufficient to achieve EU emission reduction targets by 2020. If it also takes into account policy measures that are still in the preparatory phase, in particular in the transport and residential sectors, emission reductions in 2020 will amount to 25%.

[18] The EU27 are not on course to meet their long-term targets. Even though by implementing planned measures the EU will meet its emission reduction targets of 20% by 2020, the EEA emphasises that a reduction of 25% in 2020 is insufficient for achieving the required more drastic reductions after 2020. An 80-95% reduction in greenhouse gas emissions by 2050 will require additional measures. The EEA has calculated that the aggregate of EU27 greenhouse gas emissions in 2030 will be 30% lower than in 1990, while cost effective emission reductions in line with long-term targets must come close to 40%[23].

[19] Progress with regard to the 20% target at Member State level. The EEA has calculated that eleven Member States can meet their targets by 2020 on the basis of existing policies while a further seven Member States can meet their targets if the currently planned additional measures are taken. The remaining nine Member States (including Belgium) will not meet their target in the framework of the Effort Sharing Decision on the basis of domestic policies, even if all planned measures are implemented in addition to existing policies.

1.4. Belgium

[20] Belgium on course for its Kyoto target. The EU15 target under the Kyoto Protocol to reduce greenhouse gas emissions by 8% for the period 2008-2012 compared to the reference year 1990 is shared between Member States in the Burden Sharing Agreement. On the basis of this agreement Belgium has accepted the target to reduce greenhouse gas emissions by 7.5% compared to 1990 for the period 2008-2012[24]. Average greenhouse gas emissions for the period 2008-2010 were 10.4% lower than in 1990. The EEA has also calculated that if Belgium is to meet Kyoto targets it will have to resort to using flexible mechanisms. In June 2011 it already looked like Flanders will probably have to purchase three times as many emission rights than planned at the end of 2012 in order to absorb the Kyoto deficit. The reason for this is higher than expected total emissions from non-ETS sectors.

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[22] Agreement on the determination of the contributions of Member States to the EU's overall target of 8%. The EU (Environment) Council reached an agreement on this issue on 16 June 1998. The Environment Council's conclusions can be found at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/envir/09402.EN8.htm.

[23] EUROPEAN COMMISSION (2011), A *Roadmap for moving to a competitive low carbon economy in 2050*, COM(2011) 112, 8 March 2011. Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0112:FIN:EN:PDF .

[24] This target is shared internally in Belgium between the three Regions and the Federal Government. The Flemish Region has committed to reducing greenhouse gas emissions by 7.5% in the period 2008-2012, the Walloon Region has a target of -5.2% and the Brussels-Capital Region may increase emissions by 3.475%.

[21] Belgium is not on course for 2020 targets. Belgium is one of the nine Member States that will not meet its emission reduction targets for non-ETS sectors by 2020 on the basis of existing domestic measures, even if all measures in the preparatory stage are taken into account. This means that our country must make use of flexible mechanisms and/or must take additional measures.

2. State of affairs in UN negotiations

2.1. The Climate Change Conference in Cancun

[22] The importance of the Climate Change Conference in Cancun. The sixteenth UN Climate Change Conference was held in Cancun from 29 November 2010 to 10 December 2010. The Climate Change Conference in Cancun was exceptionally important from the point of view of its content and process. After the negotiators were unsuccessful in reaching a new climate change agreement in Copenhagen in 2009, there was not just an urgent need for substantive agreements on international climate change policy after 2012 but the negotiation process itself had to be put back on track.

[23] The Mina Council's advisory report dated 28 October 2010. The Mina Council issued a unanimous advisory report in preparation for the Climate Change Conference in Cancun[25]. The 2010 advisory report starts by positioning the climate change issue as well as the (developing) international and European policy framework on the subject. On the basis of this positioning, the Mina Council formulated recommendations on strategic themes as well as concrete subthemes. The demand for clarity about the legal form of the envisaged climate change agreement is one key element of this advisory report. The Mina Council's opinion was that an agreement should at least consist of a second commitment period under the Kyoto Protocol with a complementary agreement under the Convention Track, including comparable emission reduction targets for the US, financial commitments from the industrialised countries and actions from developing countries, all in line with the principle of shared but differentiated responsibility.[26] On the other hand in this advisory report the Mina Council stresses that there appears to be a consensus about the need for serious debate on EU emission reduction targets by 2020[27]. Without talking about actual target levels, the Mina Council points out a number of advantages that would be more ambitious in climatic terms for the EU, particularly focussing on the development of green technology.[28].

[24] The Cancun Agreements. After the Climate Change Conference in Copenhagen, expectations for Cancun were not so fraught. There was no expectation that a comprehensive global and legally binding climate change agreement would be reached in Cancun. Instead the aim was for a so-called 'balanced package of decisions'. A considerable number of decisions were taken at the Climate Change

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[25] MINA COUNCIL Advisory report on the Climate Change Conference in Cancun dated 28 October 2010. Available at: http://www.minaraad.be/adviezen/2010/de-klimaattop-in-cancun.

[26] Paragraph 62 of the Mina Council's advisory report on the Climate Change Conference in Cancun dated 28 October 2010.

[27] Paragraph 66 of the Advisory report.

[28] Paragraph 67 of the Advisory report.

Conference in Cancun. The results of the two negotiation tracks were approved as a whole respectively by the COP, the annual meeting of the Climate Change Treaty parties, and the CMP, the annual meeting of parties to the Climate Change Treaty that are also parties to the Kyoto Protocol. Together, Decision 1/CP.16, which refers to the results of the negotiations in the framework of the AWG-LCA, and Decision 1/CMP.6, related to the results of negotiations in the framework of the AWG-KP, form the Cancun Agreements.

[25] Decision 1.CP/16. The following paragraphs briefly outline the most important elements of Decision 1/CP.16.

[26] *Shared vision*. Section I of Decision 1/CP.16 describes the *shared vision* of the parties for long-term action to achieve the ultimate target of the Climate Change Treaty. What is essential is that paragraph four of Decision 1/CP16 expressly recognises that major reductions in global greenhouse gas emissions are necessary to limit average global temperature increases by a maximum of two degrees Celsius. This involves adding a figure to the '*ultimate objectives of the Climate Change Treaty*' after almost twenty years of negotiations. In addition, the possibility of reducing this target to a maximum temperature increase of 1.5 degrees Celsius is kept open if new scientific evidence should reveal this to be necessary. The parties also decided to work on identifying global emission reduction targets to substantially reduce global greenhouse gas emissions by 2050, and the parties agree that global and national emissions must peak as soon as possible though they recognise that the timeframe for achieving emission peak will be longer in developing countries. This differentiation between the rights and obligations of developed countries on the one hand and developing countries on the other is integrated in various elements of the Cancun Agreements. The parties recognise that the transition to a low carbon society must happen in a socially just manner with emphasis on the creation of decent and green jobs. The importance of this paragraph[29] lies in the fact that for the first time in the history of UN environmental policy reference is made to the role of workers in national climate change policy.

[27] Mitigation. Section III of Decision 1/CP.16 relates to decisions about reducing greenhouse gas emissions ('mitigation'). Reduction efforts for developed and developing countries are referred to in separate paragraphs. Section III A relates to the decisions on '*nationally appropriate mitigation commitments*' announced by developed countries; Section III B relates to decisions about the '*nationally appropriate mitigation actions*' of developing countries. The differentiation between developed countries and developing countries therefore continues here. The introductory paragraph of Section III A includes an explicit reference to the principle of the shared but differentiated responsibility and historical responsibility of developed countries. The introductory paragraph of Section III B confirms that social and economic development and poverty reduction are the main priorities of developing countries.

One important achievement of the Climate Change Conference in Cancun is that mitigation pledges[30] made by the parties after the Climate Change Conference in

[29] Also the introductory paragraph to Section III E related to the economic and social consequences of mitigation measures refers to the social dimension of climate change policy, recognising the importance of a fair transition in the labour market and the creation of decent and high-quality jobs.

[30] The developed countries' '*nationally appropriate mitigation commitments*' and the developing countries' '*nationally appropriate mitigation actions*'. In the remainder of this document the word 'pledges' will refer to the emission reductions announced by the Parties since the Climate Change Conference in Copenhagen.

Copenhagen are now formally incorporated in the UN negotiation process by means of the Cancun Agreements. Paragraph 36 of Decision 1/CP.16, for instance, refers to emission reduction targets that AI Parties committed to. Paragraph 49 does the same for NAI countries. AI countries are strongly encouraged to increase the (at present inadequately low: see below) level of ambition for this commitment. The NAI countries will strive to reduce their emissions compared with a *business as usual* scenario. The introductory paragraph to Section III B also mentions that developing countries can increase their mitigation efforts but that these efforts depend on the financial, technological and logistics support from developed countries. Given that many of the commitments were formulated conditionally, the Parties in Cancun agreed to organise workshops throughout 2011 to clarify the underlying assumptions to the commitments and conditions to increase targets.

[28] Climate financing. In addition to commitments related to mitigation, the promises made by developed countries in Copenhagen with regard to climate financing were formally confirmed in Cancun. Paragraph 95 takes note of the developed countries' obligations to supply 30 billion dollars of new additional and predictable climate financing for the period 2012-2012 (the so-called fast-start financing). Paragraph 98 recognises the developed countries' obligation to mobilise 100 billion dollars on an annual basis by 2020 (long-term financing). The Parties in Cancun also decided to set up a Green Climate Fund and to assist the COP with a Standing Committee to improve the consistency and coordination of climate financing, the mobilisation of financial resources and the measurement, reporting and verification of the support provided to developing countries.

[29] Review. Paragraph 138 states that the adequacy of the two-degree objective will be periodically assessed in light of the Climate Change Convention's ultimate goal and progress made towards achieving it. The first review should start in 2013 and be concluded in 2015. Paragraph 139 states that this review will be based on the best scientific knowledge available *'including the IPCC's assessment report'.* The most recent of these reports was the IPCC's fourth assessment report, published in 2007 (IPCC AR4). The IPCC is currently preparing the fifth assessment report. Publication of the definitive report is planned for October 2014, but reports from the various working groups will be released in September 2013 (working group I[31]), March 2014 (working group II[32]) and April 2014 (working group III[33]) respectively. In other words the reports from the three working groups will be published simultaneously with the review as set out in the Cancun Agreements, which means that the results of the research can ideally be used by the IPCC as a basis for the review.

[30] MRV. There is no separate chapter devoted to measuring, reporting and verifying emissions ('MRV') in the Cancun Agreements. The rules on MRV are included in Section III on the need for increased mitigation. To recall, in Section III a distinction is made between the rights and obligations of developed and developing countries. For countries with obligations under the Kyoto Protocol the

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[31] Working group I examines the scientific aspects of the climate system and climate change. This working group examines the climatic situation: changes in the atmospheric concentration of greenhouse gases, changes in temperature, rising sea levels, precipitation patterns, etc.

[32] Working group II examines the vulnerability of both socio-economic and natural systems to climate change and the potential for these systems to adapt to climate change. In other words, working group II examines the (positive and negative) effects of the changes observed by working group I.

[33] Working group III examines the possibilities for fighting climate change by preventing or reducing greenhouse gas emissions and promoting activities that remove carbon from the atmosphere.

conditions for measuring and reporting emissions are currently determined by the Kyoto Protocol. The agreements made in Cancun basically mean that the MRV framework will also be reinforced for NAI Parties. In Cancun MRV agreements were made for developed as well as developing countries. It was agreed that at the beginning of 2011, Parties would start to defining directives for a reinforced MRV framework. In Cancun it was agreed that the MRV for climate financing, for which there is no current framework under the Climate Change Treaty or the Kyoto Protocol, would also be reinforced.

[31] Extending the AWG-LCA's mandate. It can be noted that the Parties in Cancun agreed, from a process-oriented perspective, to extend the AWG-LCA's mandate by one year with a view to allowing the working group to continue its activities and carry out the tasks assigned to it under the Cancun Agreements.

[32] Decision 1/CMP.6. Document 1/CMP.6 refers to the decisions taken by Parties in the framework of the AWG-KP. Prior to the actual decisions, the Parties recognised that the AI countries must continue to take the lead in the fight against climate change.

[33] 25-40% emission reductions by AI Parties by 2020. Parties to the Kyoto Protocol formally recognise that, on the basis of the fourth IPCC assessment report, the AI Parties must reduce their greenhouse gas emissions by between 25 and 40% by 2020 (compared with 1990) in order to limit the temperature increase to two degrees Celsius. This is the first time that this target has been explicitly included in a CMP Decision.

[34] Preventing a gap between the first and second commitment period. In Cancun no new reduction targets were agreed in the framework of the Kyoto Protocol but Parties to the latter did decide to complete negotiations on the future of the Kyoto Protocol 'as soon as possible' and in any case in time to prevent a gap between the first and second commitment periods.

[35] Incorporating the commitments made in Copenhagen. In this decision, Parties take note of the commitments made by AI countries after the Climate Change Conference in Copenhagen. The targets registered by the countries in the Annexes to the Copenhagen Agreement are formally incorporated in a CMP Decision.

[36] Increasing the level of ambition. As well as formally anchoring the commitments in a CMP Decision the CMP urges AI Parties to increase the level of ambition for announced emission reductions. This means that the Parties agree that the announced emission reduction 'targets' must be converted into 'commitments'.

[37] Emission trading and flexible mechanisms remain available. Parties agree that AI Parties can continue to use emission trading and project-based mechanisms to achieve their quantified emission reduction targets. Please note that Paragraph 6 states that this will occur '*in accordance with relevant decisions of the CMP*' and refers to a draft text as discussed in Cancun. This draft text states that the CMP decides that '*the trading and issuance of ERUs, AAUs and CERs after 31 December 2012 will apply only for those Parties that have ratified the second commitment period*'.

[38] What the Cancun Agreements do not include. Identifying what does *not* appear in the Cancun Agreements proves to be just as interesting as looking at

the decisions that *were* taken in Cancun.

'*Cancun has broadly outlined a future framework for fighting climate change and has also produced a very long 'to do' list for negotiators in Durban'* (Ernestine Meijer, '*De Cancún Klimaatconferentie, en hoe nu verder?*' ('The Cancun Climate Change Conference, and what's the next step?') in *Environment and Law*, 5th edition, May 2011, p. 309).

Firstly, in the framework of the envisaged step-by-step approach, negotiators in Cancun took a considerable number of in-principle decisions and started a considerable number of processes, the elaboration of which has been left to COP17.

'*Concerning balance between the Protocol and Convention tracks, many saw the outcome as less successful*' ('Summary of the Cancun climate change conference: 29 November – 11 December 2010' in the *Earth Negotiations Bulletin*, 13 December 2010).

Furthermore the decision related to the legal form of the envisaged climate change agreement has been left to the next Climate Change Conference. Though from a positive perspective, the Cancun Agreements leave room for many possibilities for the future of the Kyoto Protocol and the Protocol still has a potential future, Paragraph 1 of Decision 1/CMP.16 clearly reads as a compromise between supporters and opponents of a second commitment period. On the one hand no deadline has been established for completing negotiations on the future of the Protocol, while on the other it does mention that negotiations must be completed in a 'timely' fashion in order to prevent a gap between the first and second commitment period.

[39] The Cancun Agreements: significant regardless of the content. As mentioned above a considerable number of decisions were taken in Cancun. Whether the Climate Change Conference in Cancun can be qualified as a 'success' as a result of this is debatable. Even though significant progress was made in terms of content for various subthemes, the general impression is that the Cancun Agreements are, all things considered, just a small step forward in reducing global greenhouse gas emissions. The agreements on mitigation in particular seem rather weak, and the decision on the form of the envisaged agreement has been left to the Climate Change Conference in Durban. In this respect one should bear in mind that the Cancun Agreements have a special significance, regardless of the content. Many consider getting the multilateral negotiation process 'back on track' to be the most important result of the Climate Change Conference in Cancun.

2.2. The agenda for Durban (and thereafter)

The challenges facing COP17 can be roughly summarised in four points.

2.2.1. Mitigation: after identifying the emissions gap, bridging it

[40] ***The commitments are insufficient.*** The commitments made by the Parties in the Copenhagen Agreement and formalised in the Cancun Agreements are insufficient to offer a likely chance of limiting the temperature increase by a maximum of two degrees Celsius.

[41] UNEP Emissions Gap Report[34]. It appears from the UNEP's often quoted *Emissions Gap Report* that there is a gap[35] of between 5 and 9 Gt for expected emissions in 2020 on the basis of current commitments and emission reductions that are necessary to offer a likely chance of achieving the two degree objective. UNEP has calculated that if we want to have a 'likely chance'[36] of pegging the temperature increase to two degrees Celsius, global emissions in 2020 can amount to a maximum of 44 Gt CO_{2eq}. In a business-as-usual (BAU) scenario emissions in 2020 will amount to 56 Gt CO_{2eq}. This corresponds to a gap of 12 Gt CO_{2eq}. Depending on whether countries achieve their least or most ambitious emission reduction targets and on which accounting rules[37] they apply (how they calculate an 'emission reduction'), this gap will be reduced to a greater or lesser degree. In the least favourable scenario, countries will achieve their least ambitious commitments and will apply lenient calculation rules. In this case, emissions in 2020 will amount to 53Gt and the gap will be reduced to 9 Gt. In the most favourable scenario, if countries apply their most ambitious commitments in combination with strict accounting rules, they can further reduce global emissions in 2020 to reach 49 Gt. This means that even in the most optimistic scenario there is still a gap of 5 Gt CO_{2eq} between announced emission reductions and the reductions required to achieve the two-degree objective. The size of this discrepancy more or less corresponds to the EU's total emissions of greenhouse gases in 2009.

Current commitments will result in a temperature increase[38] of between 2.5°C and 5°C in 2100 depending on the scenario. Therefore, even in the most optimistic scenario expected emissions on the basis of current commitments will result in a temperature increase higher than 2.5°C. According to UNEP this doesn't mean that achieving the two-degree objective is impossible by definition. It does mean, however, that after 2020 emission reductions that are technically and economically feasible and at the highest end of the scale will be necessary.

UNEP is currently working on an update to this report that will be published shortly before the Climate Change Conference in Durban.

[42] Climate Action Tracker. The *Climate Action Tracker* regularly provides a detailed and up-to-date overview of the commitments made by the various countries that it uses to calculate the expected temperature increase. What is interesting in light of the discussion around increasing the level of ambition, and in particular the distribution of the necessary additional efforts, is that the *Climate Action Tracker* also 'assesses' the various countries' level of ambition[39]. On the basis of a country's historical and expected future emissions, both in an amended or

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[34] UNEP (2010), *The Emissions Gap Report. Are the Copenhagen Accord Pledges Sufficient to Limit Global Warming to 2°C or 1.5°C?* Available at: http://www.unep.org/publications/ebooks/emissionsgapreport/.

[35] UNEP (2010), *The Emissions Gap Report. Are the Copenhagen Accord Pledges Sufficient to Limit Global Warming to 2°C or 1.5°C?* Chapter 4 (pp. 40-44): What is the emissions gap?

[36] UNEP defines '*a likely chance*' as a probability of more than 66%. '*A medium chance*' corresponds to a probability of between 50% and 66%.

[37] 'Lenient accounting rules' ('*lenient rules*') is understood to mean, among other things, that countries do not use additional LULUCF credits and surplus AAUs to achieve emission reductions.

[38] UNEP (2010), *The Emissions Gap Report. Are the Copenhagen Accord Pledges Sufficient to Limit Global Warming to 2°C or 1.5°C?* Chapter 5 (pp. 45-48): Twenty-first century temperature projections associated with the pledges.

[39] For a graphic representation of this assessment see: http://www.climateactiontracker.org/country.php.

unchanged policy scenario and on the basis of the reduction efforts that other studies consider 'appropriate' for a country, the country's commitment is assessed as exemplary, sufficient, medium or inadequate. What is noteworthy is that the least ambitious commitments of developed countries are mainly assessed as 'inadequate'. Though even the most ambitious commitments are often 'insufficient' these come substantially closer to the reductions needed.

2.2.2. Climate financing: not just an emissions gap but also a financial gap

'*An equitable approach to limiting global emissions of greenhouse gases has to recognize that developing countries have legitimate development needs, that their development may be jeopardized by climate change, and that they have contributed little, historically, to the problem. Flows of climate finance (…) from developed to developing countries represent the principal way to reconcile equity with effectiveness and efficiency in dealing with the climate problem'* (World Development Report 2010, p. 257)

[43] Climate financing is necessary. Even though developed countries must take the lead in combating climate change, mitigation is also necessary in developing countries . In the 2010 World Development Report, the World Bank concludes that the cost for mitigation quickly increases in proportion to the increase in planned reductions. Consequently, if developing countries do not contribute to mitigation, even in the short-term, this will substantially increase the ultimate cost of mitigation.

The Cancun Agreements[40] confirm that the main priorities for developing countries are social and economic development and poverty reduction. Furthermore paragraph 6 points out that, in historic terms, the contribution made by developing countries to the atmospheric concentration of greenhouse gases is relatively low[41] while they are the first to suffer the effects of climate change. It is in this context that climate financing pledged in Copenhagen and Cancun must be viewed.

In its advisory report on the Climate Change Conference in Cancun dated 28 October 2010, the Mina Council already pointed out that the funds promised are substantial but actually insufficient in the light of the estimated cost of mitigation and adaptation[42]. The first task facing developed countries is to effectively deliver the climate financing they have promised. Honouring promises that have been made is important from a strategic point of view but also and particularly because many developing countries need the funds that have been pledged to be able to implement climate change policies. The longer mitigation is delayed, the more difficult and expensive it becomes to achieve the necessary emission reductions[43] and the greater the need (and funds) there will be for adaptation to the effects of climate change.

[44] Delivering fast-start financing: state of affairs. An analysis of the available information about pledged and delivered fast-start financing carried out by 11.11.11[44] as summarised by the World Resources Institute shows that less than

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[40] See, among others, paragraph 6 of Decision 1/CP.16.

[41] Although emerging economies are currently responsible for a significant share of global CO_2 emissions.

[42] Paragraph 43 of the advisory report with a reference to the *World Development Report 2010.*

[43] This is also evident in the UNEP's *Emissions Gap Report*

[44] 11.11.11 (2011), *Klimaatfinanciering. Oplossingen voor een rechtvaardig klimaatbeleid (Climate financing.*

nine billion dollars were allocated in 2010 budgets. Amounts actually paid out are thought to have been lower. 11.11.11 also points out that many countries include fast-start financing in their obligations in the area of development cooperation.

In Copenhagen the EU promised to provide 7.2 billion euros between 2010 and 2012 in the form of climate financing. In 2010, the EU and its Member States released 2.34 billion euros[45]. In Durban, the EU will provide an explanation of provisions of fast-start financing, just as it did in Cancun. The report[46] that the EU will present in Durban shows that the EU also released 2.34 billion euros in 2011, two-thirds of which consisted of donations and the remaining third of loans. This means that the EU and Member States have released a total of 4.68 billion euros for climate financing. Supporting mitigation projects accounts for 39% of this funding, 31% is used for adaptation and 12% for actions to reduce deforestation. It means that of the 7.2 billion euros promised at the end of 2011 the EU has provided 65% of its pledge, even though part of it is in the form of loans.

In Copenhagen, Belgium promised to contribute 150 million euros in the form of fast-start financing for the period 2010-2012. Forty million euros were released from the federal budget for development cooperation in 2010 and, a further 20 million euros in 2011. In 2010, the Walloon Region contributed two million euros via the *Agence wallonne de l'Air et du Climat* (Walloon Agency for Air and Climate). An explanatory memorandum[47] from Minister Schauvliege in the Flemish Parliament reveals that, for 2012, Flanders has allocated 757,000 euros[48] from the Environment budget and 800,000 euros from the Development Cooperation budget. The Minister stresses that these are provisional amounts that may change as soon as a contribution scale has been established. This means that Belgium, at this moment and on the basis of data in the Mina Council's possession, has definitely released 62 million euros in total for fast-start financing. In other words, between now and the end of 2012 our country must still contribute over 85 million euros. No official internal burden sharing has (yet) been established for the Belgian contribution to fast-start financing.

2.2.3. The legal form of the agreement

[45] No decision yet on the future of the Kyoto Protocol. As previously mentioned, no decision was taken in Cancun with regard to the future of the Kyoto Protocol. At present the Kyoto Protocol relates to less than a third of global emissions. In the case of a second commitment period without Russia, Japan and

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Solutions for fair climate change policy). Available at: http://www.11.be/11/dossiers/klimaat/artikel/detail/detail/11dossier_klimaatfinanciering_oplossingen_rechtvaardig_klimaatbeleid,104045.

[45] THE EU COUNCIL (2011) (ECOFIN), *EU Fast-start Finance Report to the UNFCCC Secretariat,* 6 May 2011. Available at: http://register.consilium.europa.eu/pdf/en/11/st09/st09888.en11.pdf.

[46] THE EU COUNCIL (2011) (ECOFIN), *Council Conclusions on Climate Finance – Fast-start Finance,* 8 November 2011. Available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/125968.pdf.

[47] Minister Schauvliege's reply to a request made by Flemish MP Hermes Sanctorum for an explanation about the Flemish contribution to fast-start climate financing, Proceedings from the Environment Committee of 11 October 2011, p.20-21. Available (in Dutch) at: http://docs.vlaamsparlement.be/docs/handelingen_commissies/2011-2012/c0m020lee3-11102011.pdf.

[48] This is also evident in the Explanatory Memorandum on the Environment, Nature and Energy, Planning, and Rural policy areas for resource budgeting and general expenditure of the Flemish Community for the financial year 2012. Available (in Dutch) at: http://docs.vlaamsparlement.be/docs/stukken/2011-2012/g13-2-l.pdf.

Canada, the Kyoto Protocol would only relate to approximately 16%[49] of global CO_2 emissions.

[46] The value of the Kyoto Protocol. The value of the Kyoto Protocol lies in the fact that it is the only international instrument that includes legally binding emission reduction targets. Because it is binding, a legal instrument ensures predictability and reciprocity with regard to the other parties' efforts. The Kyoto Protocol lays down common rules for measuring, reporting and verifying emission reductions. Agreements for measuring, reporting and verifying emission reductions are vital in the framework of the current pledge and review approach. Common accounting rules must ensure the additionality[50] and comparability[51] of emission reductions.

2.2.4. Implementing the Cancun Agreements

[47] Developing the in-principle decisions in the Cancun Agreements. Developing the many in-principle decisions taken in Cancun can be viewed as the 'fourth' challenge for Durban. We could include the following specific but not exhaustive examples:

- Adopting global emission reduction targets for 2050 and a timeframe for global emission peaks;
- The decision relating to a plan and concrete implementation with regard to the announced revision of the adequacy of the two-degree objective in the long term and the extent to which we are on schedule to achieve this target;
- Adopting guidelines for biennial reporting, by developed countries as well as developing countries, on emission reduction achievements;
- Reinforcing the MRV framework;
- Identifying sources of long-term financing, getting the Green Climate Fund and the Standing Committee up and running;
- Getting the Technology Mechanism up and running;
- Getting the Adaptation Committee up and running.

3. The EU standpoint for Durban

The common EU position for the Climate Change Conference in Durban was established in the ECOFIN Council on 4 October 2011, the Environment Council on 10 October 2011 and the European Council on 23 October 2011.

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[49] The EU's (Environment) Council also points this out in the Council's conclusions of 10 October 2011 in preparation for the seventeenth UN Climate Change Conference.

[50] This means that for every tonne of emission reductions reported, one tonne of CO_2 is actually avoided.

[51] This means that one tonne of CO_2 reduction in one country is the same as one tonne of CO_2 reduction in another country.

3.1. The ECOFIN Council of 4 October 2011[52]

[48] The ECOFIN Council of 4 October 2011. The ECOFIN Council confirms that the EU will contribute 7.2 billion euros to fast-start financing[53] and that in Durban the EU will report in a transparent manner on the way in which it fulfils this obligation[54]. The ECOFIN Council emphasises that progress must be made in identifying sources of long-term financing[55] and stresses that the EU is willing to assume a fair share[56]. The Council underlines the need to identify a path for scaling up climate financing for the period between 2013 and 2020[57]. The Council views the process to get the Green Climate Fund up and running as an important part of an ambitious and balanced result of the Climate Change Conference in Durban[58].

3.2. The Environment Council of 10 October 2011[59]

[49] The EU 'is open' to a second commitment period

'While reiterating its preference for a single global and comprehensive legally-binding instrument, [the Council] confirms its openness to a second commitment period under the Kyoto Protocol as part of a transition to a wider legally-binding framework, provided that (…)'[60]

The Environment Council confirms that the EU is open to a second commitment period under the Kyoto Protocol. What is important in these Council conclusions is the precise wording of the EU position on the Kyoto Protocol. In the Council's conclusions of 14 October 2010 and 14 March 2011 the Council confirms its 'willingness to consider' a second commitment period. With the current wording the Council seeks to align the EU position with the progress made in international negotiations over the last few months. A global and comprehensive legally binding climate change agreement still remains the explicit objective.

[50] On condition that a roadmap is adopted under the Convention Track

'(…) the Convention (…) determines a roadmap, including a timeline with a final date and process taking into account the 2013-2015 review, for encompassing all the outcomes of this track in a multilateral, rules-based legal framework engaging all Parties, with convergence with the Kyoto Protocol after a second commitment period'

According to the Council the acceptance of a second commitment period under the Kyoto Protocol is related to negotiations under the Convention Track. A necessary condition for accepting a second commitment period is that a roadmap is adopted under the Convention Track, which establishes a deadline for validating a comprehensive climate agreement and in which the Kyoto Protocol is integrated at

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[52] Available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/124887.pdf.

[53] Paragraph 4

[54] Paragraph 5

[55] Paragraph 7

[56] Paragraph 8

[57] Paragraph 8

[58] Paragraph 11

[59] Available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/envir/125026.pdf.

[60] Paragraph 6

the end of the second commitment period. It is therefore not the intention that this be followed by a third commitment period. With regard to the duration of the second commitment period the Council states that it must end in 2020 and that it must be compatible with the entry into force of the future comprehensive agreement.

[51] To include all major emitters

'(…) emphasises that such a framework should include mitigation commitments from in particular all major economies'

Given sharply rising emission levels from emerging economies, the Environment Council emphasises that large economies in particular must accept binding emission reduction targets in the envisaged comprehensive climate agreement.

[52] The conditional 30% target

'REAFFIRMS its conditional offer to move to a 30% reduction by 2020 compared to 1990, as a part of a global and comprehensive agreement for the period beyond 2012 and provided that other developed countries commit themselves to comparable emission reductions and that more advanced developing countries contribute adequately according to their responsibilities and respective capabilities'

In its conclusions the Council refers to the emission reductions that are, according to the IPCC, necessary by 2020 and confirms the EU's conditional offer to raise EU reduction targets from 20% to 30% if the other developed countries pursue comparable targets and if the more advanced developing countries make an adequate contribution to global emission reductions.

3.3. The European Council of 23 October 2011[61]

[53] The European Council endorses the EU position

'*The European Council endorses the conclusions of the Council of 4 and 10 October 2011 which outline the EU position for the Durban conference on climate change in detail*'

'*The European Council confirms the openness of the European Union to a second commitment period under the Kyoto Protocol as part of a transition to such a framework, as set out by the Council on 10 October 2011*'

The European Council has endorsed the EU position as set out by the ECOFIN Council and the Environment Council.

3.4. The European Parliament

3.4.1. The European Parliament's Environment Committee

[54] Public and unequivocal support for a second commitment period

'*The continuation of the Kyoto Protocol beyond 2012 will decide the success or failure of the Durban summit. The EU must show the necessary leadership to prevent a stalemate in climate negotiations*' (press release by the European Parliament's Environment Committee issued following the adoption of the resolution[62])

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[61] Available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/125496.pdf.
[62] Available at: http://www.europarl.europa.eu/nl/pressroom/content/20111024IPR30159/html/Climate-summit-EU-should-champion-Kyoto-Protocol.

In an extraordinary session on 26 October 2011 the European Parliament's Environment Committee met to adopt a resolution on the Climate Change Conference in Durban. The Committee urged the EU to announce its 'public and unequivocal' support for a second commitment period and to take all the necessary steps to prevent a gap between the first and second commitment periods. The Committee stresses that an international legally binding agreement remains the ultimate objective and that as a result comparable progress is needed under the Convention Track. In this respect the Committee also refers to the radical geopolitical changes that have occurred in recent decades. A number of developing countries have become important economic and political players and bear a commensurate responsibility. However, the Committee appears to be less strict when it comes to wording the conditions for acceptance of a second commitment period. The Committee does not explicitly refer to the need for a roadmap under the Convention Track that includes a deadline for a global agreement.

[55] Thirty billion euros for climate financing. The Committee calls on the European Commission and its Member States to honour their obligations in terms of climate financing. It is expected that the EU contribution to long-term financing will have to amount to 30 billion euros annually in the long term and be in addition to the 0.7% of the budget for development cooperation.

[56] Raising the level of ambition. The European Parliament's Environment Committee points out that current commitments in the framework of the Copenhagen Agreement formalised in the Cancun Agreements are insufficient to meet the two-degree objective and calls on all parties, in line with the principle of a shared but differentiated responsibility, to raise the level of ambition for their reduction targets.

[57] Including aviation in the EU ETS. In light of the current controversy involving the inclusion of aviation in the EU ETS, the Committee stresses the need for binding reduction targets for aviation as part of an international agreement. The Committee confirms its support for Directive 2008/101/EC amending Directive 2003/87/EC to also include aviation in the regulations for greenhouse gas emission trading within the Community.

3.4.2. The European Parliament

[58] The European Parliament Resolution. The entire European Parliament votes on this resolution during the plenary session on 16 November 2011, two weeks before the Climate Change Conference begins.

4. Recommendations

4.1. The mitigation gap

[59] The Council's conclusions of 10 October 2011. In the Council's conclusions of 10 October 2011 the EU recalls that in order to achieve the two-degree objective global emissions must peak by 2020 at the latest and global greenhouse gas

emissions must be reduced by at least 50% in 2050 compared with 1990[63]. The EU also confirms that the developed countries as a group must reduce emissions by between 80 and 95% by 2050, and by between 25 and 40% by 2020, while developing countries must strive for a substantial reduction of between 15 and 30% compared with a business-as-usual scenario.

The EU recognises the need to move to a low carbon economy and society[64]. According to the Roadmap to a low carbon economy published this spring by the European Commission it seems that a 25% reduction in EU emissions by 2020 is feasible if the current climate and energy policies are fully implemented. The impact analysis[65] carried out by the Commission in the framework of this roadmap reveals that the EU currently is not on schedule to reduce EU greenhouse gas emissions by 20% by 2020, and that this is because of insufficient progress in improving energy efficiency. Improving energy efficiency by 20% by 2020, adopted as a target in the 20-20-20 targets and in the Europe 2020 strategy, will automatically result, according to the Commission, in a 25% reduction in greenhouse gas emissions by 2020 (compared with 1990). In its forecasts for 2020, the European Environment Agency also concludes that the EU can exceed its 20% emission reduction target by 2020 by implementing all policy measures that are currently in preparation.

[60] The EU emission reduction target. Nevertheless at the moment the EU is still clinging to the unconditional EU emission reduction target of 20% by 2020. In the Council's conclusions the EU reconfirms its conditional offer to raise this target to 30% on the condition that the other developed countries make comparable efforts and that the more advanced developing countries also make an adequate contribution to global mitigation efforts[66].

[61] The EU target is insufficient in light of the reductions needed in the long term. It appears from the situation described above that the current level of ambition is insufficient to limit average global temperature increases to two degrees. The unconditional EU target to reduce greenhouse gas emissions by 20% by 2020 is insufficient in light of the necessary reductions in the long term[67]. In line with its advisory report following the Climate Change Conference in Cancun, the Mina Council reiterates that a serious debate about increasing the EU emission reduction target is necessary and stresses that we must prepare for stricter EU emission reduction targets within Europe. This is a sensible approach taking into account the necessarily sharper emission reductions in the long term and that it is in the EU's interest.

[62] Emission reductions in non-ETS sectors. The impact analysis carried out in preparation for the Roadmap to a competitive low carbon economy in 2050 reveals that CO_2 emissions from industry for the period 1990-2005 fell by 20%. In comparison with other sectors this is a higher than average reduction. For

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[63] Paragraph 12.

[64] Paragraph 13.

[65] EUROPEAN COMMISSION (2011), *Impact Assessment Accompanying the Roadmap for moving to a competitive low carbon economy in 2050,* SEC (2011) 288, 8 March 2011. Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2011:0288:FIN:EN:PDF.

[66] Paragraph 14.

[67] The *Climate Action Tracker* assesses the 20% target to be '*inadequate*'. Available at: http://www.climateactiontracker.org/.

instance, emissions from the residential and services sector in the same period fell by 12%, while emissions from the transport sector increased by 30%. The impact analysis for the Roadmap shows that up until 2030 most (cost-effective) emission reductions will be achieved by ETS sectors but that as of 2030 non-ETS sectors must achieve an equivalent reduction. This means that in the long-term non-ETS sectors in particular, in particular transport and the heating of buildings, must increase reduction efforts. The Mina Council points out that, specifically in Flanders, total emissions by non-ETS sectors were higher than expected for the first commitment period under the Kyoto Protocol, which means that Flanders may have to purchase more emission credits than planned at the end of 2012 and/or must take additional measures. The Mina Council emphasises that significant emission reductions can still be achieved, particularly in non-ETS sectors. Of course this does not release ETS sectors from their obligation to continue investing in the transition to a low carbon economy by 2050.

[63] Developed countries must prepare for reductions at the highest end of the scale. Consequently the Mina Council states that developed countries as a group must prepare for greenhouse gas emission reductions at the highest end[68] of the range as determined by the IPCC. On the basis of the fourth IPCC report, developed countries must, compared with 1990 levels, reduce greenhouse gas emissions by between 25 and 40% by 2020 and by between 80 and 95% in 2050. This recommendation is even more relevant in 2011 than it was in 2010 now that the latest measurements have revealed that greenhouse gas emissions reached a record high in 2010. This confirms that the expected temperature increase is in line with the worst-case scenario in the IPCC's fourth evaluation report. On the basis of the record emissions observed in 2010 a business-as-usual scenario can lead to a temperature increase of more than five degrees. Implementing current commitments may result in a temperature increase of between 2.5 and 5 degrees.

[64] The Danish EU Presidency. In the course of 2011 the debate about raising the EU reduction target has been hovering in the background in anticipation of the analysis promised by the Commission regarding the effects a higher reduction target could have on Member States and on activity sectors. According to information in the Mina Council's possession this analysis is expected to be available at the end of 2011 or the beginning of 2012 and will be discussed in the EU context under the Danish Presidency, that will take over from Poland on 1 January 2012. Given the fact that Denmark is one of the supporters of a higher EU reduction target and that it recently announced a national emission reduction target[69] of -40% by 2020 compared with 1990, the Mina Council believes that a supported and informed Belgian position with regard to the EU position, including the consequences for Belgium and Flanders, is crucial. Therefore the Mina Council is also calling for a Belgian position to be defined with regard to the EU reduction target in the framework of current federal government negotiations.

[65] Internal Belgian burden-sharing of the EU target. In its advisory report on the Climate Change Conference in Cancun, the Mina Council already called for work to be done as soon as possible on an internal Belgian burden-sharing of our country's national target as determined in the Effort Sharing Decision[70]. Now that

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[68] This means, compared with 1990 levels, a 40% reduction in greenhouse gas emissions in 2020 and a 95% reduction in 2050.

[69] The governmental agreement from the new centre-left government is available, in Danish, at: http://stm.dk/publikationer/Et_Danmark_der_staar_sammen_11/Regeringsgrundlag_okt_2011.pdf.

[70] Decision 406/2009/EC of 23 April 2009 on the effort of Member States to reduce their greenhouse gas

federal government negotiations have reached a decisive phase, the Mina Council urges once again that the Belgian target be distributed internally in an equitable manner. Calculations must be made for the Belgian contribution to the current 20% EU target as well as the (expected) Belgian contribution to a higher reduction target[71]. The Mina Council believes it is important for the internal apportionment of the national target to take into account a potential increase of the reduction target. If an agreement were reached solely on the apportionment of the current target,[72] this would mean that difficult negotiations on internal burden sharing would have to be resumed in the case of a higher EU target. Furthermore clarity about contributions from the different Regions and the federal government to the national emission reduction target in the case of an increased level of ambition is needed because they determine the objective of the Regions' climate policies.

[66] Federal Planning Bureau Working Paper on the impact of the EU Climate-Energy package on the Belgian energy system and economy[73]. In the summer of 2011, the Federal Planning Bureau published an update on a working paper from the end of 2008 in light of the changed economic and policy context which analysed the impact of the implementation of the European Climate and Energy Package on the Belgian energy system and the Belgian economy. It revealed that the total direct costs of the Belgian contribution to an emission reduction target of 30% are lower in the current context than the original estimated cost in the case of an EU reduction target of 20%. The lower cost is largely the result of the economic crisis, higher international energy prices and policy measures carried out in the meantime in the reference scenario that reduce reduction efforts for greenhouse gas emissions in non-ETS sectors compared to the situation on which the 2008 working paper was based. Given that the direct costs do not take into account the resulting return effects for the Belgian economy, the Federal Planning Bureau has also carried out a macro-economic assessment. This revealed that there are scenarios in which increasing the target only has a limited impact on GDP, namely on the condition that the new government revenues resulting from emission reduction policy are completely[74] reallocated in the form of a reduction in social security contributions paid by employers.

[67] Reducing domestic emissions first. In order to meet its Kyoto target Belgium must use flexibility mechanisms as described above. Recently it became apparent that Flanders must purchase three times as many emission rights by the end of 2012 than was planned. However, in 2009 the Federal Planning Bureau[75]

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emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020 (the so-called Effort Sharing Decision). Belgium must reduce emissions from non-ETS sectors by 15% by 2020 (compared to 2005).

[71] The current 20% target is translated into an obligation for Belgium to reduce greenhouse gas emissions from non-ETS sectors by 15% by 2020 (compared to 2005). If the EU reduction target is raised to 30%, this probably means that Belgium will have to reduce greenhouse gas emissions in non-ETS sectors by between 20 and 22% by 2020.

[72] A 15% reduction in non-ETS sectors by 2020 compared with 2005 levels.

[73] FEDERAL PLANNING BUREAU (2011), *Working Paper 9-11. Impact of the Climate-Energy Package on the Belgian energy system and economy – Update 2010.* Available at: http://www.plan.be/admin/uploaded/201108101254000.wp201109.pdf.

[74] A complete reallocation means that this option is fiscally neutral for the government because new government revenues are totally compensated by tax reductions in other areas.

[75] Belgium would only have to purchase 1 Mt of emission rights to meet its Kyoto targets: FEDERAL PLANNING BUREAU (2009) *Federaal klimaatbeleid – Uitvoering van het Kyoto Protocol. Verslag van het Rekenhof aan de Kamer van Volksvertegenwoordigers* (*Federal climate policy - Implementing the Kyoto Protocol. Court of Audit*

calculated that Belgium could internally meet its Kyoto target. A study[76] from 2009 by McKinsey & Company, in collaboration with the Federation of Enterprises in Belgium, shows that implementing the energy-efficiency improvements identified in the study could reduce Belgian greenhouse gas emissions by a quarter in 2030 compared to a business-as-usual scenario. In line with previous advisory reports, the Mina Council emphasises the general principle that Flanders must first strive to achieve all available internal reduction measures that are cheaper than the use of flexibility mechanisms so that the use of the latter can be limited to situations where they are necessary. Up-to-date marginal cost curves are urgently needed so that an assessment can be made about which internal measures must be given priority.

[68] The environmental integrity of the necessary cost-effective emission reductions abroad. In view of the European Environment Agency's forecasts mentioned above, it appears that Belgium will not meet its Kyoto target without the use of flexibility mechanisms. The Mina Council recognises that in some cases emission reductions can be made in a more cost-effective manner abroad. Though the Mina Council emphasises that emission reductions abroad may only be taken into account in meeting Kyoto targets if for every reported tonne of emission reductions an actual reduction has taken place. The EU Decision[77] to prohibit international carbon credits that originate from projects focused on reducing emissions of HFC-23 as of May 2013 already shows that the focus on environmental integrity of the flexibility mechanisms (in this case the CDM) is widely supported.

[69] Socially fair climate policy. In the Cancun Agreements, for the first time in the history of UN environmental policy, there is an explicit reference to the social aspects of climate policy and to the role of workers in international climate policy. In the Cancun Agreements, the Parties recognise that the transition to a low carbon economy must take place in a socially just manner with the emphasis on decent work and high-quality jobs. However, even though the recognition of the need for a just transition is a crucial first step, a mere statement of this concept is not enough. The next step is to further elaborate this concept and to translate it into concrete actions.

The Mina Council believes that the International Labour Organisation (ILO) with its tripartite structure that unites employers, employees and public authorities is well placed in this respect. The Council believes that the ILO's involvement in labour-related themes in climate policy must be considered[78].

The Mina Council notes that at the EU level too little attention is paid at the moment to the social dimension of EU climate and energy policy in the long-term policy framework that is currently being developed. The Mina Council also points

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of Belgium Report to the Chamber of Representatives, p. 50. Available (in Dutch) at: http://www.ccrek.be/docs/Reports/2009/2009_12_Kyoto_NL.pdf.

[76] McKINSEY & COMPANY (2009), *Pathways to World-Class Energy Efficiency in Belgium*. Available at: http://www.mckinsey.com/App_Media/Reports/Belux/Energy_efficiency_in_Belgium_summary_EN.pdf

[77] Regulation 550/2011 on determining, pursuant to Directive 2003/87/EC of the European Parliament and of the Council, certain restrictions applicable to the use of international credits from projects involving industrial gases. Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:149:0001:0003:EN:PDF.

[78] ETUC (2011), *Climate change negotiations: ETUC resolution on EU position at Durban COP17* (paragraphs 5-7), 19-20 October 2011. Available at: http://www.etuc.org/a/9159.

out the need for including the social dimension in the context of the EU Roadmap to a competitive low carbon economy in 2050 to ensure that the transition to a low carbon society takes place in a socially just manner.

4.2. The financial gap

[70] Delivering the pledged fast start financing. The first challenge is delivering the fast start financing that has been pledged. In the EU annual reports to the UNFCCC the EU claims to be on schedule with regard to its contribution to fast start financing. In 2011 the EU will contribute 2.34 billion euros in the form of fast-start financing, as it did in 2010[79].

[71] Increasing climate financing in the long term. Fast start financing, however, should only be considered as a first step towards a substantial increase in climate financing. The real challenge is mapping out a timetable and identifying sources for climate financing after 2012. The Cancun Agreements do not include any interim objectives for climate financing for the period 2012-2020. As the ECOFIN Council also points out in the Council's conclusions of 4 October 2011 and 8 November 2011, the Mina Council believes that mapping out a timetable for increasing climate financing and identifying sources for long-term financing forms a necessary part of the envisaged decision package in Durban. What is important to realize in this respect is that the contributions from public sector financing for the year 2013 must already be allocated in national budgets at the beginning of 2012, in other words shortly after the Climate Change Conference in Durban.

[72] Equitable international burden sharing. At the moment there is no international burden sharing system for the 100 billion dollars per year that the developed countries promised in Copenhagen and Cancun. It is the contribution scale used that determines what an 'equitable' EU contribution to the 100 billion would be. The EU contribution varies between 29% (if the emission of greenhouse gases represents the only criteria) and 38% (if GDP represents the only criteria). If both criteria are given equal weighting, an 'equitable' EU27 contribution corresponds to 33%[80]. This is in line with the 30 billion euros per year that the European Parliament's Environment Committee is requesting as the EU's negotiating position in Durban. The Mina Council points out that the proposed apportionment, whereby the EU would take on approximately a third of the long-term climate financing, means that the EU must sharply increase its climate financing between 2012 and 2020.

[73] Innovative financing: proceeds from auctioning emission rights. The European Commission refers to proceeds from auctioning emission rights as an important innovative source of climate financing. The European Commission has reached the conclusion that auctioning emission rights in the EU ETS in 2020 could generate over 20 billion euros per year. The amended ETS Directive[81] leaves the decision about the use of proceeds from auctioning emission rights to Member

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[79] EU COUNCIL, *EU Fast-start Finance Report to the UNFCCC Secretariat,* document 9888/11 of 6 May 2011. Available at: http://register.consilium.europa.eu/pdf/en/11/st09/st09888.en11.pdf.

[80] EUROPEAN COMMISSION (2011), *Scaling up international climate finance after 2012.* Brussels, 8 April 2011, SEC (2011) 487. Available at: http://ec.europa.eu/economy_finance/articles/financial_operations/pdf/sec_2011_487_final_en.pdf.

[81] Directive 2009/29/EC amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community. Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:140:0063:0087:EN:PDF .

States[82] but does establish that at least 50% of the proceeds must be used for measures related to climate policy[83]. Moreover the European Council of December 2008 established that if an international climate agreement is reached, part of the proceeds must be used for climate action in developing countries[84]. Also the High-Level Advisory Group on Climate Change Financing, established by the UN Secretary General after the Climate Change Conference in Cancun[85], stressed that introducing a carbon price[86] is an important element in delivering pledged climate financing in the long term. The High-Level Advisory Group's report[87] reaches the conclusion that a carbon price of between 20 and 25 dollars per tonne of CO_2 equivalent, if 10% of the proceeds are spent on international climate action, could generate up to 30 billion dollars a year that could be spent on climate financing.

The Mina Council notes that in Flanders there are conflicting views with regard to the best use of the proceeds from auctioning emission rights. Given the huge potential for these proceeds in terms of climate financing, and to better align Member States use of these proceeds, the Mina Council considers it appropriate for the EU to issue more precise guidelines with regard to this use.

[74] Other forms of innovative climate financing. In addition to auctioning emission rights, a tax on financial transactions is another source of innovative financing that is often mentioned. On 28 September the European Commission issued a proposal[88] for a Directive in which it called for the introduction of a tax on financial transactions. The Commission has calculated that such a tax could generate 57 billion euros a year. In a number of resolutions[89] the European Parliament has also asked the Commission to examine to what extent a financial transaction tax could be used as an innovative source of finance to support adaptation and mitigation policy in developing countries. The Mina Council stresses that preventing tax evasion is an important point of concern in this respect.

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[82] Article 10 3 a) states that 'Member States shall determine the use of revenues generated from the auctioning of allowances'.

[83] More specifically these funds must be used for such purposes as: reducing greenhouse gas emissions, adapting to the impacts of climate change, developing sustainable energy and increasing energy efficiency, measures to avoid deforestation and to increase afforestation and reforestation in developing countries, the safe capture and storage of CO_2, the shift to low-carbon transportation methods and public transport, etc. (see Article 10 of Directive 2009/29/EC).

[84] *Scaling up international climate finance after 2012*, p. 27.

[85] The High-Level Advisory Group on Climate Change Financing was established by the UN Secretary-General after the Climate Change Conference in Cancun to examine the way in which developed countries could mobilise 100 billion dollars a year by 2020.

[86] Without giving an opinion on the choice of instrument that should be used to impose a carbon price. In other words the High-Level Advisory Group does not explicitly state whether this should be through the introduction of a tax on CO_2 or via the carbon market.

[87] *Report of the Secretary-General's High-Level Advisory Group on Climate Change Financing*, 5 November 2010. Available at: http://www.un.org/wcm/webdav/site/climatechange/shared/Documents/AGF_reports/AGF%20Report.pdf.

[88] EUROPEAN COMMISSION (2011), *Proposal for a Council Directive on a common system of financial transaction tax,* COM (2011) 594, 28 September 2011. Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0594:FIN:EN:PDF .

[89] EUROPEAN PARLIAMENT (2011), *European Parliament resolution of 8 March 2011 on innovative financing at global and European level.* Available at: http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0080+0+DOC+XML+V0//EN . See also the *European Parliament resolution of 10 March on financial transaction taxes - making them work.* Available at: http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0056+0+DOC+XML+V0//EN .

Secondly the Mina Council points to the possibility for a tax on fuel used by international shipping (bunker fuels). Both the High-Level Advisory Group on Climate Change Financing and the European Commission[90] conclude that introducing a price on emissions from international aviation and shipping would not only significantly reduce emissions from these sectors but would also generate a major flow of new revenues. Depending on the carbon price, a tax or emission trade in these sectors could generate between ten and thirty billion euros a year. As far as aviation is concerned, the EU has already taken an important step by including aviation in the EU's ETS. The Mina Council stresses that the introduction of a carbon price for bunker fuels must also be seriously discussed at international level.

[75] The Belgian contribution to fast start financing. On the basis of information in the Mina Council's possession, Belgium must still release more than 85 million euros as a contribution to fast start financing. The Mina Council notes that 60 of the 62 million that Belgium has already released come from the budget for development cooperation. Even though the distinction between climate financing and development aid is sometimes blurred, the Mina Council emphasises that the contribution to climate financing must not undermine the Belgian contribution to development cooperation and achieving the Millennium Development Goals in any way. The Mina Council is aware that Flanders has provisionally allocated 1.5 million euros as a contribution to fast start financing in the 2012 budget. Given the fact that the Flemish contribution may be significantly higher in light of an internal burden sharing between the Regions, the Mina Council is calling for an agreement to be reached as soon as possible with regard to the internal distribution of the remaining Belgian contribution to fast start financing so that the various Regions have clarity about the efforts they must still make.

[76] The Belgian contribution to climate financing in the long term. In any event, the Belgian contribution to fast start financing will have to rise sharply after 2012. Belgium is currently committed to delivering 150 million euros between 2010 and 2012 as a contribution to the EU's contribution of 7.2 billion euros. To illustrate the order of magnitude of the challenge facing Belgium the Mina Council points out that if the current contribution scale were applied to an expected EU contribution to international climate financing of approximately 33 billion[91], this would mean that in 2020 Belgium would have to contribute over 650 million euros a year. This is more than ten times the amount of its current contribution.

[77] Clarity about the proceeds from auctioning emission rights. The Mina Council has already pointed out the potential for proceeds from auctioning emission rights. It is not clear to the Council which administration is competent for the utilisation of these proceeds. In light of conflicting views in this regard, the Mina Council calls above all for timely agreements to be made on the way in which Flanders and/or Belgium will use the proceeds from auctioning emission rights. The Mina Council calls for these profits to be used unreservedly for climate change policy.

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[90] EUROPEAN COMMISSION (2010), *Innovative financing at a global level,* SEC (2010) 409 of 1 April 2010. Available at: http://ec.europa.eu/economy_finance/articles/international/documents/innovative_financing_global_level_sec2010_409en.pdf.

[91] Given that the EU takes on a third of international climate financing as stated in the Commission report *Scaling up international climate finance after 2012.*

4.3. The legal form of the climate agreement

[78] The real value of the Kyoto Protocol. Although, generally speaking, the Climate Change Conference in Cancun was welcomed at least as a partial restoration of confidence in the multilateral negotiation process, the languid pace of the UN climate change negotiations is being criticised more and more. After the Climate Change Conference in Cancun, various voices warned that, although the negotiation process may have been rescued, the climate certainly had not (or at least not yet). In terms of the negotiations on a second commitment period under the Kyoto Protocol it was also pointed out that, currently, the Kyoto Protocol only covers less than a third of global emissions. In its conclusions of 10 October 2011 the EU Council points out that, given the refusal of a number of AI countries to accept a second commitment period, the percentage of emissions that the Protocol will relate to in a second commitment period will be even far lower.

The Mina Council also recognises that the Kyoto Protocol is inherently limited to achieving the two degree objective The Council however believes that the true value of the Kyoto Protocol lies in the fact that it is the only international rules-based legally binding policy framework for fighting climate change. In this respect the Mina Council emphasises that the EU's open attitude towards the Kyoto Protocol was an important reason why the climate conference in Cancun was more constructive than the climate conference in Copenhagen. According to the Mina Council the EU's open attitude with regard to the second commitment period has strengthened the EU's credibility as a player in international climate change policy as well as its role as a bridge-builder between developed and developing countries. Finally the Mina Council underlines the Kyoto Protocol's major impact on the development of EU climate change policy and its role as a catalyst for all manner of national and local climate change initiatives. On this basis the Mina Council also calls for Belgium, as an EU Member State, to ensure that the opportunity for an agreement on a second commitment period remains as great as possible.

4.4. Implementing the Cancun Agreements

[79] The Climate Change Conference in Durban involves more than just the future of the Kyoto Protocol. Many articles have described the Climate Change Conference in Durban as the conference of the 'last chance'. Although the Mina Council is aware that if in Durban no agreement is reached on the future of the Kyoto Protocol, and in more general terms on the legal form of the climate agreement, this will increase the risk of evolving into a pledge and review system, the Mina Council also points out that even if no agreement is reached on the legal form this does not necessarily mean the Durban conference will 'fail'. The Cancun Agreements have put the burden on the Climate Change Conference in Durban of developing a considerable number of operational decisions. Although the Mina Council considers that the EU must accept a second commitment period under the Kyoto Protocol as a necessary intermediate step towards a multilateral rules-based climate agreement, the Council also points out that in addition to the decision about the future of the Kyoto Protocol there are many more items on the agenda that deserve the negotiators' attention.

[80] Effective follow-up by policy makers. When this advisory report was being prepared it appeared that many issues at the level of international and EU climate change negotiations remain undecided and/or need further elaboration. Secondly it is obvious that decisions on an international and European level have far-

reaching consequences for Belgium and Flanders and that these often result in difficult internal Belgian negotiations on the distribution of efforts between the Regions and the Federal Government. Therefore, the Mina Council is also calling for an effective preparation and follow-up of climate change negotiations at the UN as well as the EU level. Permanent coordination and consultation between the Regions and the Federal Government are needed to avoid difficult discussions that would delay Belgium's implementation of UN and EU decisions.